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UNIVERSAL ORGANIZATION OF THE UNITED NATIONS AND THE WORLD ORDER

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Abstract: The development of the universal international organization of the United Nations in the previous period was not at all easy due to the fact that since its foundation in 1945, the world order changed drastically and experienced several ups and downs. The polymorphic power structure that the United Nations gradually built after the end of the Second World War was reflected in the multiplication of the number of member states, but also in the strengthening of its main bodies, whose diverse competences were adapted to the requirements of the time. After the end of the Cold War, the United Nations began reaffirming the concept of preserving world peace and security, as well as building on the existing institutional system. The aforementioned efforts were a consequence of the democratization of international relations, as well as the increased determination of the international community to devote itself more actively to solving new international political crises. In this sense, the Charter of the United Nations represented the only relevant international legal base on which modern international relations should be built. The interdependence that exists between the development of international law and international relations is, therefore, best manifested through the application of the goals and principles of the Charter, which has remained a key determinant in the regulation of all important international problems and in preserving the universal value of the largest part of the international community.

Keywords: United Nations, General Assembly, Security Council, Economic and Social Council, Trusteeship Council, International Court of Justice, General Secretariat, Charter, international order.

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INTRODUCTION

The development of contemporary international relations shows that the universal organization of the United Nations has no alternative. The ideas for its creation derive from the program objectives and principles contained in the joint Declaration of the Presidents of the US and the United Kingdom of Great Britain dated August 14, 1941, known as the "Atlantic Charter" and the Declaration of the United Nations adopted on January 1, 1942, by representatives of the anti-fascist coalition in which the will was expressed for a joint fight against the Axis Powers and their other allies, but peace was also guaranteed to all freedom-loving peoples after the end of the Second World War. In the Declaration on General Security, representatives of the four major allied powers at the Moscow Conference held in October 1943 (the United States of America, the United Kingdom of Great Britain, the Soviet Union and the People's Republic of China) saw the need to create a general international organization based on the principle of sovereign equality of all peace-loving states and open for membership to all such states, large and small, in order to preserve international peace and security. Since the maintenance of international peace and security presupposed the re-establishment of law and order and the inauguration of a system of general security, this idea had to be further elaborated through the formulation of concrete principles and goals of the world organization, its membership and organization. This was first done at the expert conference held in Dumbarton Oaks from August 21 to October 7, 1944, where the draft of the Charter of the future world organization was discussed, but also other important issues such as the method of voting and the composition of the Security Council in which the great powers would have their special place and role, on which it was not possible to reach a compromise at that time. Therefore, at the Crimean Conference held in Yalta from February 4 to 11, 1945, the presidents of the US, the United Kingdom of Great Britain and the Soviet Union expressed their readiness to resolve this issue, and invited the governments of China and France to join the invitation for holding the founding Conference of the United Nations. The founding conference of the United Nations was held from April 25 to June 26, 1945, in San Francisco, and the Charter was adopted as the constitutive act of the international organization, which entered into force on October 24 of the same year (Nešović, Petranović, 1985).

In order not to repeat the mistakes of its predecessor – the League of Nations that operated in the period between the two world wars – the United Nations established a more perfect collective security system that

prohibited the use of force between states except in self-defense (Guggenheim, 1944, pp. 173, etc.; Russell, 1958, p. 648; Hilderbrand, 1990, p. 93). Namely, it was considered that such a normative approach would prevent any future aggression and ensure peace between nations. The international legal subjectivity of the United Nations, which, according to Article 104 of the Charter, is defined as the ability necessary to perform the main functions and achieve the established goals on the territory of each member state, should also have contributed to this. However, despite this great legal achievement, the collective security system of the United Nations has not fully demonstrated its superiority and effectiveness in international practice. Namely, this state of affairs arises from a paradoxical situation that is directly related to the structure and functional powers of the main bodies of the United Nations, primarily to the oligarchic composition of the Security Council, in which the great powers have a privileged position. With the adoption of the Charter, this organ of the United Nations with an "exclusive club" of permanent members gained the ability to concentrate power and centralize the monopoly of force. In the political reality after the end of the Second World War, this paradox led to certain deviations that had serious repercussions on international politics in which the main competitors in the East-West direction were military-political blocks led by the great powers. The Cold War environment was certainly not conducive to the development of peaceful international relations, which is why demands for the adaptation of the collective security system of the United Nations grew over time. As the achievement of optimal solutions on this level was directly related to the organizational structure of the world organization, these demands increasingly concentrated on the systemic reform of the United Nations, which could not be achieved without revision of the Charter and serious conflicts on the international political scene. Due to the disunity of large and small, developed and underdeveloped countries, due to the ideological division between countries of different socio-political systems, and first of all, due to the ever-present desire of the great powers to preserve their privileged position in the world organization that emerged from the ruins of the Second World War, it was not possible to achieve any serious progress on the reform plan (Dimitrijević, 2021, pp. 429, etc.).

The contemporary period of activity of the United Nations is fraught with various political processes and phenomena. The development of the world organization has been slowed down by current international events and tensions in the East-West and North-South directions. Until this situation is improved, it will be difficult to strengthen the institutional capacities of the United Nations. It is now quite clear that any change in the

organizational and functional structure of the United Nations presupposes respect for previously achieved solutions that followed the spirit of the times. Solving current international problems, primarily between the great powers, has a strong influence on the further development of the United Nations and its positioning in contemporary international relations. However, given the continuity of the world organization's activities, it is not excluded that it will have to approach the reaffirmation of the concept of preserving peace and security, as well as the expansion of the existing international legal and institutional order, the fundamental legal basis of which will continue to be the Charter. Without its presence, it would be difficult to imagine the development of contemporary international law and, subsequently, the regulation of contemporary international relations (Dupuy, 1997, pp. 1, etc.). The interdependence that exists between the Charter and the evolution of international law has long been confirmed in international practice (Šahović, 1998, pp. 239, etc.). Hence, any essential reforms of the United Nations presuppose a previous change in the positive legal basis of the existing international order, which largely functions through the system established in the United Nations Charter, whose universality remains significant for the future of the world.[1]

THE CHARTER OF THE UNITED NATIONS

The Charter of the United Nations is the constitutive legal instrument of the United Nations, setting out the rights and obligations of the member states and establishing its principal organs and procedures. From a legal point of view, the Charter is an international treaty that was concluded at the United Nations Conference in San Francisco on June 26, 1945, and came into force on October 24, 1945. The Charter consists of a Preamble and 111 articles grouped into 19 chapters. In Chapter 1, the goals and principles of the world organization are established. In Chapter 2, the criteria for admission to membership are established. Chapter 3 regulates the status of the main organs of the United Nations. Chapters 4 to 15 define their functions and powers, while Chapters 16 and 17 relate the UN to extant

[1] The initiated reforms of the United Nations are concentrated on the composition and functioning of its main bodies. Given the very limited results of these reforms so far and the difference that essentially exists between amending and revising the Charter, it is clear in advance why some major progress in the adoption of the "reform package" has not been achieved.

international law. The last two chapters, 18 and 19, define the rules for amending and ratifying the Charter. Article 1 of the Charter codifies the goals of the universal international organization related to the maintenance of international peace and security. Those goals include taking effective collective measures to prevent and eliminate threats to peace and suppress acts of aggression or other breaches of the peace. Above all, this means the use of peaceful means in accordance with the principles of justice and international law, which should lead to the adjustment or resolution of international disputes or situations that may lead to a breach of peace. Then, this also means the development of friendly relations between peoples based on respect for the principle of equal rights and self-determination, as well as taking other relevant measures to strengthen general peace. Solving international problems of an economic, social, cultural, or humanitarian nature implies the development of international cooperation. Promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion is also one of the proclaimed objectives of the Charter. The United Nations should become the main instrument of the international community by achieving the stated goals. Along with the objectives, the Charter also codifies the principles of contemporary international relations. According to Article 2, these relations should be based on respect for the principle of sovereign equality of states, then on the fulfillment of international obligations in good faith, the resolution of international disputes by peaceful means that will not jeopardize international peace, security, and justice, and refraining from threats or the use of force against the territorial integrity and political independence of any State or in any other manner inconsistent with the purposes of the United Nations. In this regard, member states are obliged in principle to provide all assistance in any action undertaken by the world organization under the Charter, and to refrain from providing assistance to any state against which it takes preventive or coercive measures. The United Nations, on the other hand, according to the Charter, should ensure that non-member states also act in accordance with the aforementioned principles to the extent necessary to maintain international peace and security. At the same time, the Charter clearly states that its provisions do not authorize the United Nations to intervene in matters that essentially fall under the domestic jurisdiction of any states, nor can the world organization require member states to submit such matters for Resolution in accordance with the provisions of the Charter, which *in finem* does not prejudice the taking of actions in case of threat to the peace, violation of the peace and acts of aggression (Chapter VII). The interpretation of the goals and

principles as well as the rules of the United Nations Charter has never been irrelevant even for the states called to implement them in practice, and even less for the doctrine of international law, whose primary task has always been this. In this sense, one would have to accept the point of view that interpretation is a delicate legal endeavor that requires not only knowledge of the rules of legal interpretation, but also knowledge of the continuity of the United Nations and its bodies, as well as the evolution of the application of the Charter in practice (Pollux, 1946, p. 54). As a living instrument, the Charter represents the framework of the world organization, which is fulfilled daily by the practice of its bodies, whose functional powers have contributed to the inclusion and extension of the existing principles and rules framed by the Charter as the constitutive legal basis on which general international law rests *(Corpus juris gentium)* (Knight, 1999, p. 67). The interpretation of the Charter, therefore, requires a preliminary analysis of the structure of the United Nations. According to Article 7 of the Charter, the main organs of the United Nations that make up its structure are the General Assembly, the Security Council, the Economic and Social Council, the Trusteeship Council, the International Court of Justice, and the Secretariat (Conforti & Focarelli, 2016, pp. 75-155). However, the system of this universal international organization is much more broadly structured because it also includes 15 specialized agencies with their own constitutive acts (statutes) and legal personality, whose relations with the United Nations are regulated by special agreements (Dimitrijević & Račić, 2011, p. 227; Lapaš, 2008, p. 193).[2] Also, the United Nations system is complemented by a large number of programs and funds, as well as various specialized organs and bodies.

GENERAL ASSEMBLY

The General Assembly is the most democratic, political, deliberative, and representative body of the universal world organization. It is composed of all members of the United Nations and, in this respect, no distinction is made between original and subsequently admitted member states. The

[2] In accordance with the provisions of Articles 57 and 63 of the Charter, as well as the provisions of the Statute of each of the specialized agencies, agreements were concluded that regulate their mutual relations in detail and which, in principle, enable the United Nations to harmonize the policies and activities of the specialized agencies.

General Assembly meets in regular annual sessions or special sessions, as the occasion dictates.[3] The Assembly acts in accordance with its Rules of Procedure, which are an integral part of the Charter. Each member state has one vote. Decisions are made in accordance with the provisions of Article 18 of the Charter (qualified or simple majority).[4] Due to the fact that it gathers delegations from all member states of the United Nations, which have equal voting rights in the decision-making process, the General Assembly has contributed to the democratization of international relations.[5] Its sessions, which over time took on the appearance of a continuous diplomatic conference, were the institutional framework for the adoption of the most significant international legal and political acts (international conventions, resolutions, declarations, and recommendations). Beginning with the first session held in London on January 10, 1946, and up to the present day, the General Assembly has adapted its structure to the requirements of the times, gradually taking on greater responsibility in

[3] The regular session of the General Assembly, which represents the general debates of high state representatives, is held every year in the third week of September. In addition, the General Assembly can meet in extraordinary sessions convened by the Secretary General at the request of the Security Council or a majority of member states when certain issues need to be discussed. Also, an "urgent special session" is convened by the Secretary-General within 24 hours of the request of the Security Council based on the vote of any nine members of the Council or a majority of the members of the United Nations.

[4] The General Assembly, therefore, has the right to decide on important issues by a two-thirds majority of the members present and voting (for example, on the maintenance of international peace and security, on the election of non-permanent members of the Security Council, on the election of members of the Economic-Social and Trusteeship Council, on admission, suspension, and exclusion from membership, on the amendment and revision of the Charter, etc.), while on other issues, decisions are made by the majority of members present and voting. Since all important issues are not exhaustively listed in the Charter, the General Assembly can decide by a majority of the members present and vote that such issues should also be voted on by a two-thirds majority. In exceptional situations, the General Assembly also decides by consensus, i.e., without carrying out a formal procedure.

[5] Among other things, the democratization of international relations was contributed by fair geographical representation and the rotating system of the presidency of the General Assembly between five groups of countries: African, Asian, Eastern European, Latin American and Caribbean, and Western European and other countries.

performing the functions and powers stipulated in the Charter. This was especially noticeable after the fall of the *Iron Curtain* when, as part of the general development of international relations, the positions of the great powers changed and, even more sensitively, the status of a large number of states and other subjects of international law changed. The new situation directly affected the work and functioning of the General Assembly (Šahović, 2005; Dimitrijević, 2005–2006). In order to get rid of the enormous burden acquired during the Cold War conflict, the General Assembly proceeded to reaffirm the concept of preserving peace and security but also to the extension of the existing international order, the binding factor of which is the Charter, as a fundamental legal act and a living constitutional framework necessary for the implementation of the basic goals and principles of a universal international organization. With the determination to deal in a new way with the solution of the issue of human progress, which is connected with the solution of crucial problems in the economic, social, and political sphere, the General Assembly accepted the wishes and intentions of the member states directed in that direction, as well as the broadly coherent action of subjects inside and outside of the world system (governmental and non-governmental organizations, international financial institutions, transnational companies, private individuals, and civil society as a whole), in order to expand cooperation and coordination of actions. The ability to coordinate discussions on a wide range of world issues with the dispersion of authority at several organizational levels led over time to the situation that the General Assembly was transformed into a multidimensional body of the world organization in charge of solving the most diverse international problems.

In principle, the General Assembly of the United Nations has the right to discuss not only issues related to its exclusive powers prescribed by the Charter, but also subjects and tasks within the scope of powers of other bodies of the world organization. In this sense, the Charter of the United Nations speaks of the general competence of the General Assembly, distinguishing it from the so-called subsidiary jurisdiction of this body, which was not foreseen by the creators of the Charter, but which arose from the practice of the United Nations.[6] Thus, in relation to the maintenance of

[6] The general competence of the General Assembly includes functions and powers that, *inter alia,* refer to considering and making recommendations on the principles of cooperation in the maintenance of international peace and security, including the principles of regulating disarmament and regulating weapons, then discussing and making recommendations on any issue related to international

international peace and security, the General Assembly could not make recommendations regarding a dispute or situation decided by the Council until it was asked to do so. However, the General Assembly did so in practice, but only in situations where the Security Council, due to the absence of the consent of the permanent members, was not able to meet, discuss, and make meritorious decisions, i.e., when he was unable to meet his primary obligations arising from the Charter. We are therefore talking about cases when, due to the blocking of the work of the Security Council (most often due to the use of the veto), the General Assembly was authorized to, at the request of two-thirds of the member states or on the basis of a procedural decision of the Security Council, make recommendations on undertaking collective measures due to the existence of serious threats to peace, breaches of the peace, or acts of aggression.[7] The scope of competence of the General Assembly includes the possibility of starting a discussion on issues of maintenance of international peace and security brought before it by any member of the world organization or the Security Council or a non-member state of the United Nations in accordance with Article 35, paragraph 2 of the Charter (which stipulates the acceptance of the obligation of peaceful settlement dispute in accordance with the Charter). In addition to the above, according to the Charter, the General Assembly has the right to decide on admission, suspension of membership rights, and exclusion of countries from the world organization (Articles 4-6 of the Charter). That authority, as well as the authority to elect judges of the International Court of Justice and review the Charter, is shared with the Security Council. As part of the exclusive powers related to the expansion of international cooperation, the General Assembly has in the past sent recommendations

peace and security (except when the dispute or situation is being discussed by the Security Council), considering and exceptionally giving and recommending any matter within the Charter or affecting the powers and functions of any body of the United Nations, making recommendations for promoting international cooperation in the political, economic, social, cultural, educational, and health fields, etc.

[7] The aforementioned procedural rule was adopted on the occasion of the Korean crisis in 1950, when the General Assembly adopted the well-known Resolution 377(V) – *Uniting for Peace*. Based on this Resolution, a rule was established that the General Assembly can convene an "urgent special session" within 24 hours of receiving a request sent to the Secretary-General. The Resolution did not affect the powers of the Security Council, which remained primarily responsible for the preservation of international peace and security.

and given guidelines to the Economic and Social Council, member states, specialized institutions, and other bodies. The Assembly also approved treaties between the United Nations and specialized agencies and gave specialized agencies and other bodies the authority to request advisory opinions from the International Court of Justice. Although the General Assembly does not have legislative powers *stricto sensu*, its role in the codification and progressive development of international law has been manifested through the work of the International Law Commission.[8] As part of the administrative work, the General Assembly was competent to review and supervise the reports of the Secretary-General, the Economic and Social

[8] The Commission for International Law was established by General Assembly Resolution 174/II from 1947. The Statute of the Commission establishes the obligations of work on the preparation of draft contracts for cases that are not yet regulated by international law, or in relation to which the law has not yet been sufficiently developed in the practice of states. Also, the Statute prescribes the obligation to work on codification in terms of more precise formulation and systematization of the rules of international law in areas where there is already a wide practice of states and doctrines. The systematization and change of customary rules into written conventional rules therefore included the systematic development of new, so-called *development rules* from which modern international law emerged in various fields, which includes a large number of important international legal instruments, *inter alia*, the four Geneva Conventions on the Law of the Sea from 1958, the Convention on the Reduction of the Stateless from 1961, the Vienna Convention on Diplomatic Relations from in the same year, the Vienna Convention on Consular Relations from 1963, the Convention on Special Missions from 1969, the Vienna Convention on the Law of Treaties from 1969, the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents from 1973 of 1978, the Vienna Convention on State Succession in Respect to Treaties from 1978, the Vienna Convention on State Succession in respect to State Property, Archives and Debts from 1983. Although it contributed to the progressive development and codification of significant areas of international law, the International Law Commission was not always successful in terms of the legal incorporation of prepared international legal acts into the internal legal order of states (for example, the Vienna Convention on the Representation of States in their Relations with International Organizations of a Universal Character from 1975 and Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations from 1986, were not accepted even though their text was accepted at diplomatic conferences of the United Nations convened for that purpose).

Council, the Trusteeship Council, and subsidiary bodies, and also to review and approve the budget of the world organization. Also, according to the Charter, the General Assembly was authorized to receive and consider reports from the Security Council. It was exclusively responsible for the selection of non-permanent members of the Security Council and all members of the Economic and Social Council. Until 1969, the General Assembly was responsible for electing members of the Trusteeship Council who were not permanent members of the Security Council or did not exercise trusteeship over strategically important territories. According to current practice, at least 3 months before the holding of the regular annual session, the General Assembly elects the President and Vice Presidents of the Assembly as well as the chairpersons of its six main committees.

Considering the numerous and complex issues that over time came under the jurisdiction of the General Assembly (areas of international peace, security, political, economic, social, cultural and educational cooperation, codification of international law, human rights and freedoms, etc.), this body had to form a wide network of organs and bodies that helped in decision-making. That's how the General Assembly formed a network of six main committees that assisted it in dealing with disarmament and international security issues (First Committee), economic and financial issues (Second Committee), social, humanitarian, and cultural issues (Third Committee), political issues that included the issue of decolonization (Fourth Committee), administrative and budgetary issues (Fifth Committee), as well as legal issues (Sixth Committee). In addition to the main ones, the General Assembly also formed permanent committees for administrative and budgetary issues and for issues of member states' contributions, then committees for procedural issues, which include the presidency or the general committee and the verification committee. In addition to the committees, the General Assembly established other auxiliary *ad hoc* bodies and special bodies based on concluded multilateral international agreements. The ability to conduct discussions on a wide range of issues with the dispersion of authority on several organizational levels, over time led to the impression that the General Assembly has grown into a bulky and dysfunctional body that is unable to focus on the most serious problems of today's world. The adoption of a huge number of legally non-binding Resolutions and declarations contributed to the aforementioned impression, which largely led to the decline of the authority of the General Assembly. In the previous period, the reputation of the General Assembly was seriously damaged by an overloaded agenda, lengthy and convoluted debates, and slow procedures that often led to the

adoption of already seen and recycled Resolutions, without adequate mechanisms for their implementation (Račić, 2010, p. 95).

Demands for the reform of the General Assembly were therefore linked to the issue of the loss of legitimacy of the world organization. The question itself is not new and dates back to 1949. Even then, the world organization unsuccessfully tried to rationalize the procedure and organization of the General Assembly. In 1952, the Special Committee of Measures was formed, which had the task of assessing the possibility of time limits for regular sessions of the General Assembly. In November 1970, the General Assembly formed a number of committees, inter alia, the Special Committee for the rationalization of the procedure and the organization of its work. In order to provide a coherent vision that could contribute to the reform of the United Nations in the post-Cold War period, the General Assembly established five working groups in 1992. In August of the following year, it founded an informal Open-ended Working Group on the Revitalization of the Work of the General Assembly. At its 1995 session, the General Assembly established a High-Level Working Group to reach a consensus for strengthening the capacity of the world organization. In 1997, under the auspices of the General Assembly, an initiative was launched to involve civil society in the discussion on the reform of the world organization. When, during the 55th jubilee summit in 2000, the issue of reforms of the world organization was highlighted as one of the millennium goals, the Secretary-General, in order to restore the prestige and vitality of the General Assembly, recommended the establishment of the *National Millennium Assembly* as a non-governmental forum that should act in cooperation with the General Assembly to overcome all future international challenges. In the subsequent sessions, the need to strengthen the role and authority of the General Assembly in order to improve the efficiency and methods of its work was continuously repeated. In the report: *In Larger Freedom: Towards Development, Security and Human Rights for All,* dated March 21, 2005, Secretary-General Kofi Annan proposed steps towards the adoption of a reform package that would lead to the strengthening and revitalization of the General Assembly (Report of Secretary-General, 2005, p. 60). He underlined the importance of harmonizing the work of the General Assembly in order to increase its authority. Annan recommended structural and functional changes to the General Assembly's committees, strengthening the authority of the president, strengthening the role of civil society and changing the agenda. Although the report on the reform of the Secretary-General was far from comprehensive, the report represented an important step towards reaffirming the role and place of the General

Assembly in the United Nations system.[9] At the 60th session, the General Assembly adopted the text of Resolution 60/286 of September 8, 2006, which encouraged the holding of informal interactive discussions on current issues of importance to the international community. In 2008, an *Ad Hoc* Working Group on the Revitalization of the General Assembly was established, with a mandate to identify additional ways to improve the role, authority, effectiveness, and efficiency of the General Assembly. The *Ad Hoc* Working Group recommended that the President of the General Assembly be involved in an interactive debate on the revitalization of this body. In September 2010, the General Assembly adopted a Resolution reaffirming all its previous decisions related to the revitalization of its work. It was also decided to form a new ad hoc Working Group that would be open to all member states. From April to June 2012, the Working Group held several thematic sessions where they discussed issues related to the relationship of the General Assembly to other main bodies of the United Nations and groups outside the world organization system, working methods, implementation of resolutions and agendas, selection and election of the Secretary-General, in order to improve the capacity of the office of the President of the General Assembly, including the strengthening of its institutional memory and relationship with the Secretariat. The group also discussed many other technical and operational issues related to the revitalization of the work of the General Assembly. During the 67th session in 2012, several interesting interactive debates were held on a wide range of issues such as the role of international criminal justice in the reconciliation process, the global economy, peaceful conflict resolution in Africa, sustainable development and climate change, culture and development, entrepreneurship, and inequality in the world. In August 2013, on the eve of the 68th session, the President of the General Assembly reminded the member states of the world organization that the complex challenges facing the world today cannot be solved in isolation and that each state has a responsibility to implement United Nations reforms.

[9] In the mentioned Report of Kofi Annan, it is suggested to adopt the integrated proposal of the High Level Panel on Threats, Challenges and Change, which, a little earlier, in the report "A More Secure World: Our Shared Responsibility", dated December 2, 2004, as part of the implementation of institutional reforms of the world organization, among other things, proposed the establishment of a Human Rights Council that would replace the often criticized Human Rights Commission. That proposal was later adopted by the Resolution of the General Assembly no. 60/251 of March 15, 2006.

Insisting on the greater powers of the General Assembly, at the Working Group meeting, the Secretary-General reminded that the General Assembly was formed in 1945 to serve as the moral conscience of the international community. The General Assembly was created as a democratic set of rights for all nations — large and small, developed and developing — to live in peace, security and progress. However, in the past decades, the great promises of the founders of the United Nations, according to the Secretary-General, have not been fully fulfilled, and more and more countries consider that a more efficient, transparent, and comprehensive General Assembly is an imperative of the 21st century. Simultaneously with the presented position of the President of the General Assembly, it was decided to re-form an ad hoc Working Group at the 68th session to continue the work related to the reform of this body. As proposed, the new Working Group will continue to work on four groups of issues related to the role and responsibility of the General Assembly, its relationship with other main organs of the United Nations and regional organizations, and technical and operational issues such as the working methods of the General Assembly, issues of resolution implementation and rationalization of the agenda, issues related to the role of the General Assembly in the election of the Secretary-General and other administrative bodies in the system of the world organization, as well as issues of the functioning of the office of the President of the General Assembly, his relationship with the Secretariat, and ways of improving the institutional memory of the office. At the following 69th session, the General Assembly adopted Resolution 69/321, which reaffirmed the issues in four key clusters. At the same time, it established the basic criteria for the selection of the Secretary-General, while at the same time inviting the Presidents of the Security Council and the General Assembly to issue a joint statement for the purpose of conducting the selection and appointment procedure. The aforementioned Resolution suggests that the General Assembly conduct informal interviews with all registered candidates. However, the Resolution did not include the request that the Security Council present more than one candidate for the General Assembly, which was the proposal of several member states. Also, the Resolution did not deal with the issues of the appointment methodology for the Secretary-General nor with the duration of his mandate (since the proposal was made that he be elected for a single mandate of seven years instead of a renewable five-year mandate). The continuation of the debate on the revitalization of the General Assembly continued at its subsequent annual sessions (from 2016 onwards). However, an essential step forward in the realization of the foreseen solutions has not been made because there

is a deep division between the member states to bring the reforms to an end. Changes in international relations led to a new geopolitical division, which reflected on the position and work of the General Assembly. Instead of the former political coalitions of the countries of the West and the East, today the United Nations is divided into different interest groups within the global North and South, consisting of interest groups of developed countries on the one hand and interest groups of underdeveloped countries, i.e., developing countries on the other (Group G77, which also includes members of the Non-Aligned Movement, then a number of countries in transition to which the European Union countries from Eastern Europe belong, but also other countries from profiled subregional groups). The absence of consensus on the directions and ways of reforming the United Nations (primarily between the permanent members of the Security Council – P5) prevents the effective resolution of the issue of the revitalization of the General Assembly as its main representative body, which further entails repercussions in terms of preserving the dignity and increasing the authority of the world organization (Dimitrijević, 2016, pp. 169, etc).

SECURITY COUNCIL

The Security Council is the most important political body of the United Nations in which the great powers (the US, Russia, China, France, and the United Kingdom of Great Britain), as permanent members of this body, have their own special place and role (Mangovski, 1962, p. 417). This exclusive club (colloquially often referred to as the Power of 5 or P5) has an extremely privileged status compared to ten non-permanent members who are elected for a 2-year term by a qualified (two-thirds) majority of the states present and voting in the General Assembly (Jessup: 1956, p. 286; Avramov, 1965, p. 185; Jovanović, 1989, p. 217; Mikhailtchenko. 2004, p. 2).[10] The difference

[10] With the realization of the process of decolonization, the newly emancipated states on the African, Asian, and American continents began to exert more serious pressure in the United Nations, demanding the reform of the Security Council. The request was not supported for opportunistic reasons and due to the fact that its effect on the special rights of the great powers was not interpreted. A new proposal originated from 44 countries of Asia and Africa in 1963, based on which the General Assembly adopted Resolution 1991 (XVIII), December 17, 1963, on changing the number of non-permanent members of the Security Council from six to ten. With this change, the nomination system was confirmed, so that ten non-permanent members are elected according to the regional formula. Five non-permanent

in status was established *a priori* due to the different balance of power in the world. This led to a departure from the principle of equality of members of the world organization in favor of the principle of preserving international peace and security (Kelsen, 1945/1946, p. 1087). As a result, special criteria were established for the selection of non-permanent members of the Security Council. Namely, according to these criteria, states can be elected to the Security Council on the basis of their contribution to maintaining peace and security in the world, as well as on the basis of their contribution to the achievement of other important goals of the United Nations. Another authoritative criterion for the selection of non-permanent members is the assessment of their fair geographical representation (Article 23, paragraph 1 of the Charter) (Russell, 1958, pp. 648-649). Since in the practice of the United Nations, the evaluation of the criteria of contribution to peace and security (Chapter VII of the Charter) remained without concrete effects, the second criterion gained importance. However, this criterion was never completely clear and precise enough and was interpreted in different ways, so that it could represent the equal right of the states of the region to have their own representative in the Security Council, or it could represent the authorization of the states of different regions to participate proportionally in the work of the Security Council, considering the size of the region and the territorial proximity of the state of the region to the place of the outbreak of the political crisis. *In concreto,* the geographical criterion assumed that the role of the elected state was reduced to representing the political interests of the states of the region, which reinforced its voluntarist dimension (Bailey, 1975, p. 135).

The Security Council acts in accordance with procedural rules that correspond to its organizational structure. Thus, it can intervene *proprio moto,* anytime and anywhere, regardless of the fact that all its members have a permanent seat in New York. The presidency of the Security Council is held by each of the members in turn for one month, following alphabetical order. The convening of sessions can be on its own initiative, at the request of any

members are elected from Asia and Africa, two members are elected from Latin America, while one member is elected from Eastern Europe and two from Western Europe and other countries (meaning the countries of the British Commonwealth, Canada, New Zealand, and Australia, which do not belong to the mentioned groups). Every year, five new members are elected according to the rotation system, which enables a greater fluctuation in the composition of this body. A member whose mandate has expired is not in a position to be automatically re-elected.

member of the United Nations, regardless of whether it is a member of the Security Council or not, and then also at the request of the General Assembly or the Secretary-General. Although it is stipulated that the Council of Ministers meets at least every two weeks, in reality, its sessions are convened almost daily, and informal consultations regarding the adoption of the most important decisions and resolutions are ongoing almost continuously. As a selective representative body, the Security Council acts on behalf of the member states of the United Nations. When voting, each country in the Security Council has one vote. Decisions on procedural issues are made by a qualified majority, i.e., with the affirmative vote of 9 members (Article 27, paragraph 2). Decisions on essential issues are made by the Council with the affirmative vote of 9 members, including the affirmative votes of permanent members (Article 27, paragraph 3). There is not even an exception for the peaceful settlement of disputes from Chapter VI of the Charter, nor for the settlement of disputes through regional organizations and agreements (Article 52, paragraph 3), unless it is a member that is a party to the dispute when there is an obligation to abstain from voting. Permanent members in such cases often decide on the qualification of the dispute or situation (Elarby, 2003).[11] In accordance with the nature of the collective security system of the United Nations, the Security Council has the function to investigate any situation and dispute that may threaten peace and security, and then to help find appropriate solutions, as well as to take all necessary measures in the field of prevention and coercion. If he were to propose the introduction of coercive measures, then the prior determination of endangering or disturbing the peace would require the unanimity of all its permanent members. Although the Charter does not explicitly mention the right of veto (Article 27, paragraph 3), the provisions on voting allow the permanent members to prevent the adoption of a decision by their vote, even on procedural issues. This so-called *double veto* allows each member of the Security Council to have the right to request a preliminary declaration, whether the matter is procedural or substantive in nature, where such a decision is a substantive issue, *per se*. An exception is possible according to the Provisional Rules of Procedure, if the President of the Security Council puts this issue on the agenda, in which case any nine members can make a

[11] According to Art. 27, paragraph 3 of the Charter, a member of the Security Council participating in the dispute is obliged to abstain from voting. In practice, there were quite the opposite cases when the permanent members of the Council were both parties to the dispute and parties that decided on the merits of its existence.

positive decision (Bowet, 1982, p. 30). With the increase in the number of members of the Security Council, the importance of the mentioned decision also increased, because it was much more difficult for the permanent members of the Security Council (P5) to impose their individual or collective will more or less on the visible majority (Dedering, 2000, p. 75). Likewise, when deciding on the election of judges of the International Court of Justice, an exception is made by providing for an absolute majority of the votes of the members of the Security Council (Article 8 and Article 10 of the Statute). The same is the case when convening a General Conference for the revision of the Charter (Article 109), where the deviation is contained in the decision adopted by the qualified system of nine affirmative votes of any member of the Security Council.[12] The abstention of one of the permanent members of the Security Council in the voting procedure does not mean the use of the veto (Stavropoulos, 1967, p. 737).

Based on the provisions of the Charter, the Security Council was assigned specific powers and competences regarding the peaceful settlement of disputes (Chapter VI), taking actions in the event of a threat to the peace, violation of the peace and acts of aggression (Chapter VII), the use of regional agreements and organizations for coercive action (Chapter VIII), management and supervision of trusteeship territories (Chapter XII). Based on Article 24 of the Charter, states have entrusted the Council with a central role in maintaining international peace and security. In this respect, the

[12] In the abovementioned context, it is necessary to notice the difference contained in the Charter. Namely, according to Article 108 of the Charter, amendments to the Charter enter into force when they are adopted by two-thirds of the states in the Security Council, i.e., when, in accordance with the procedures prescribed by the Constitution, two-thirds of the members in the General Assembly, including permanent members of the Security Council, ratify the accepted amendments. The same procedure is prescribed by Article 109, paragraph 2 of the Charter in the context of convening the General Conference of United Nations members on the revision of the Charter (Article 109, paragraph 1). In the first case, it is obviously about partial changes to the Charter, while in the second case, it is about its essential changes that led to its revision. The adoption of amendments and the Charter revision procedure presupposes a majority voting system, since a qualified two-thirds majority of the members present and participating in the vote is not required, but a two-thirds majority of all states represented in the General Assembly, which concretely means securing two-thirds of the affirmative votes of the United Nations member states as affirmative votes of all permanent members of the Security Council, for which the principle of unanimity applies.

Charter clearly deprived states of the right to war *(ius ad bellum).* On the other hand, the Charter did not precisely formulate objective criteria to assess whether a threat to peace, a breach of peace, or an act of aggression really exists or not (Šahović, 1995, p. 29). It is up to the Security Council to determine in advance whether in a specific situation there are these violations that lead to a violation of the general peremptory obligation to renounce them (Article 2 point 4). When it finds that it exists, the Council makes recommendations or decides what measures to take in order to maintain or establish international peace and security (Article 39). It is understandable that for crisis political situations, the Council is asked to recommend some usual means of peaceful settlement of disputes, from negotiation, the use of investigative commissions, mediation, conciliation, and arbitration, to judicial settlement of disputes, resorting to regional institutions or agreements, but also other mutually accepted means (Article 33). In the event of a worsening of the situation, the Security Council has the right to call on the interested parties to comply with the temporary measures it deems necessary (Article 40). If there is further escalation, according to Article 41 of the Charter, the Council can decide on non-violent measures that the members of the United Nations should apply to implement its decisions. Practically speaking, these are different types of sanctions that directly or indirectly affect economic, traffic, diplomatic, and other relations with the offending state. If it turns out that the sanctions are not adequate, that is, they are insufficient, the Council can take military measures with air, sea, or land forces (Article 42). In that case, plans for the use of armed force should be drawn up with the help of the Military Staff Committee (Article 46). The preventive role of the Council can be performed on its own initiative, following a warning from the General Assembly, the Secretary-General, or even a country that is not a member of the United Nations but that is a party to the dispute. In the latter case, the non-member state would not have the right to participate in the decision (Article 32). In the exercise of the repressive function, member states that are not represented in this body may participate in making decisions related to the use of their contingents of the armed forces (Article 44). The motives for transferring the basic function of the organization to a smaller body such as the Security Council are contained in the opinion that through the Council as an operational-political body, it is possible to achieve a higher level of efficiency of collective security. Starting from the assumption that the great powers have greater political responsibility in decision-making than other members of the United Nations, the creators of the Charter, *a priori,* created a situation that enabled the concentration of authority and the centralization of the

monopoly of power in the hands of a narrow circle of elected states. This is most evident in the right to individual or collective self-defense, which is expressly recognized only until the moment of taking action by the Security Council (Article 51). In other words, it is confirmed that the member states of the United Nations are obliged to implement the decisions of the Security Council in accordance with the Charter (Article 25), and at the same time, the right is left to the permanent members to decide discretionally on the competences in the event of a possible violation of their vital interests (International Court of Justice Reports, 1971, p. 54; 1992, p. 126; Bedjaoui, 1994, p. 11). The ubiquitous antinomy between the political and legal forms of collective security in the Charter is supported by the free consent of the other members of the Security Council to act on their behalf and then by the synthetic option that the Security Council performs its duties in accordance with the goals and principles of the United Nations (Article 24), which has proved to be timeless and universal. Therefore, the political character of the Security Council does not exempt it from the obligation to respect the provisions of the Charter (International Court of Justice Reports, 1948, p. 64; Bowet, 1994, p. 92).

The functional organization of the Security Council as an executive-political body of the United Nations does not reflect the equality of its institutional and normative aspects. The division of competences, in which the powers in the area of peace and security are primarily concentrated within its framework, did not stand the test of time as a whole. The reasons are, inter alia, that the Charter does not provide for the possibility of replacing the permanent members of the Security Council and does not contain any provisions on expanding their number. Likewise, the Charter does not prescribe criteria to determine which countries in the world are eligible to become members of the exclusive club. In order to eliminate contradictions, it is necessary to provide certain mechanisms by means of which this situation can be resolved.[13] Flows of communication between

[13] The development tendencies of the collective security system of the United Nations led to the formation of the Peace Building Commission. The establishment of the Commission was encouraged by the High Panel of Experts. Due to the shared competence in matters of peace and security, the initiative was first supported by the Security Council based on Resolution 1645 of December 20, 2005, and then that proposal was supported by the General Assembly in Resolution 60/180 of December 30, 2005. The main task of the Peacebuilding Commission is to undertake actions in countries that have emerged from conflict and whose governments seek the help of the international community to regulate the difficult

opportunities and responsibilities require solving the problem of reforming the collective security system beforehand. Considering the real geopolitical changes that have taken place in the world after the post-Cold War era, we should not miss the historic opportunity to redirect the process of collective security reforms in the direction of real training of the United Nations to deal with the challenges of the new era (Report of Secretary-General, 21 March 2005).

In the aforementioned sense, it is first necessary to note that the use of force in new circumstances requires new and more precise rules. In recent years, states have often violated the general rule against the use of force and threats. The expansion of the scope of activities of the Security Council was therefore inevitable. The ideas of a new world order and global governance in the fields of peace and security had significant political implications, especially in the international community where conflicts were mitigated during the Cold War. At the same time, looking from the perspective of the Charter, three situations arose in practice. The first one referred to the use of force for the purpose of warning, based on the right to self-defense when the threat was not imminent *(pre-emptive use of force).* The second situation referred to the preventive use of force in conditions when the threat potentially or actually existed, but outside the borders of the state space *(preventive use of force).* And the third situation involved the use of force in the event of a threat, within the borders of the national territory. All three situations were covered by Security Council Resolutions. In a wide range of objectives, the Resolutions were the basis for the liberation of countries from occupation (Kuwait), the re-establishment of a legitimate government (Haiti), the restoration of international peace and security (East Timor), the supervision of economic sanctions (FR Yugoslavia), the establishment of international criminal tribunals for the former Yugoslavia and Rwanda (ICTY and ICTR), the formation of a court for the sanctioning of serious violations of international humanitarian law (Special Court for Sierra Leone) and the establishment of special chambers for the prosecution of war crimes and crimes of genocide (Extraordinary Chambers in the Courts of Cambodia). In some earlier cases, the authorization was given by the current authorities in the country (Albania), or by the government in exile (Haiti).

post-conflict situation. With the establishment of the Peacebuilding Commission, the United Nations, for the first time in its history, established a body whose mission in the field of collective security relies on the professional capacities of the world organization.

Observing the above examples *in extenso,* the actions of the Security Council were the *ultimum remedium* for the promotion, establishment, preservation or restoration of world peace and security. Hence, the Resolutions became the main instruments through which the Security Council acted in cases where it was determined that it would be politically justified (Blokker, 2000, pp. 541-563). Although it is a generally accepted rule that the main organs of the United Nations have at least the right to determine the limits of their prima facie competence, it would be realistic to ask whether all the actions of the Security Council were in accordance with general international law, that is, whether actions were quasi-legislative or quasi-legal in nature? In other words, has the practice of the United Nations become a sufficient tool for interpreting the existing international law? (Račić, 1997, pp. 39–64; Đorđević, 2000, pp. 371–387; International Court of Justice Reports, 1962, p. 168; Franck, 1993, pp. 196. etc.).

Taking into account that the objectives and principles of the United Nations are formally connected with the competence of the Security Council based on Articles 1, 2, 24(1) and 39 of the Charter, it is assumed that its action is in accordance with justice and international law. Since the goals and principles are no less indefinite than the concept of threat or breach of peace, it is clear that this action in practice does not have to be like that. Based on the solutions present in the positive legal system of collective security from Article 42 of the Charter and solutions that were proposed during the drafting of the Charter in the *travaux préparatoires,* the only and exclusive right to use force is given to the Security Council through the armed forces of the member states (Article 43) (Kelsen, 1950, p. 756). The new model of delegated empowerment of collective actions objectively originated from international practice and was nowhere explicitly mentioned as a possibility that members could use within the powers prescribed by the Charter (unless the hypothetical empowerment of actions is excluded based on Article 53, paragraph 1 of the Charter, could be enforced by regional agencies or agreements in relation to former World War II enemy states) (Pindić, 1978, p. 216). The legal interpretation of the Charter in such situations would be simply impossible. Therefore, it is necessary to interpret the problem much more extensively in light of the evolution of the rules and principles of the Charter and general international law. Their progressive development was foreshadowed in June 1992, when the Agenda for Peace was published, followed by an addendum dated January 3, 1995 (Reports of the Secretary-General, 17 June 1992; 3 January 1995). The traditional framework on collective security contained in Chapter VII of the Charter is significantly complemented by

this document with a broader concept of security which, in addition to the establishment and preservation of peace, foresees its construction and imposition. The agenda, in fact, in the interpretation of peace starts exclusively with the presence of the United Nations in the field. It emphasizes that in the new circumstances for which the world organization was not fully prepared, the suspension of the principles of consent of the parties, impartiality and non-use of force, except in the case of self-defense, can be fully justified. The experiences of the previous decade clearly show this. Namely, the mandates of the peacekeeping forces of the United Nations in peacekeeping operations are mainly related to the containment of conflicts within states. Covering themselves with much broader tasks than usual, the United Nations troops protected the civilian population in certain security zones and provided so-called *humanitarian aid*, but they also undertook actions of mediation and measures of concrete pressure on the parties to the conflict to achieve national reconciliation (for example, in Somalia, Bosnia and Herzegovina, and Rwanda) (Caron, 1993, pp. 552. etc.). Difficulties arose when the Security Council failed to fulfill its basic role in a timely manner and when it subsequently entrusted the tasks of coercion to groups of member states that demanded their international legal recognition for violent actions already undertaken (Rostow, 1991, pp. 506–516). The changed character of the conflict in the international community led to the mutation of the legal basis on which the previously known system of collective security rested. The political character of the decisions of the Security Council and the ability to decide on its own competence *(Kompetenz-Kompetenz)* led to more pragmatic positions that justified the possibility that the order of preserving world peace would be essentially completed, if not already, and formally replaced. Discussions about the justification of taking action, however, remained on the agenda of lawyers (Koskenniemi, 1995, pp. 348. etc.). Since the nature of the world organization was and always remained the same, ie. ideological, they will also represent part of a wider discussion about the future of global society (Bertrand, 1995, pp. 359. etc.). Finally, changes in the physiognomy of the membership of the Security Council do not cease to be one of the central themes of all proposals on the reform of the United Nations. The ideas presented so far within the Working Group of the General Assembly on issues of fair representation and the expansion of membership in the Security Council support the reaffirmation of the place and role of the United Nations in the new international order. In essence, the ideas have remained related to the structural reorganization of the Security Council until today (Winkelmann, 1997, pp. 35–90; Müller, 1997, p. 88; Dimitrijević,

2007, pp. 935-958).[14] On the other hand, the proposals submitted in connection with the functional reform of the Security Council, which includes issues of legal adaptation of its basic functions and changes in the system of collective security, remain extremely uncertain since they depend on a compromise that would be reached at the level of the overwhelming majority of states (Dimitrijević, 2008a, pp. 251-272; 2009, p. 400; Reports of Secretary-General, 2 December 2004; 21 March 2005, pp. 42–43). The direction of further developments was determined at the summit of heads of state and government held in September 2005. In the final document entitled: *Results of the World Summit in 2005,* the existing role of the Security Council in preserving world peace and security was reaffirmed. In the text of the mentioned document, the need to reform the Security Council is emphasized in order to achieve broad representativeness, efficiency and transparency, which could contribute to the effectiveness and legitimacy of its decisions. The adoption of the mentioned document showed the existence of a great disagreement among the member states of the United Nations regarding the direction of further reforms of the Security Council. The disagreement led to a new regrouping and division in the world organization. In order to untangle this political knot, in the future it will be necessary to find new methods of work in order to make the activity of the Security Council available to countries that are not its members, which could contribute to the democratization of this body and its increased responsibility in modern international relations (World Summit Outcome Document, 16 September 2005).

[14] The program of activities of the Working Group was divided into two sets of reform issues, namely, in relation to issues related to the expansion of the Security Council, decision-making, periodic reviews, and then in relation to issues related to the improvement of the publicity of the work, the participation of non-permanent members in its work, and relations between the Security Council, the General Assembly and other organs of the United Nations, including the issues of supporting, limiting and revoking the right of veto, as well as the possibility of amending the Charter. The debates conducted within the Working Group and the proposal group, which *inter alia* refer to immutability in relation to the existing permanent membership (the so-called *status quo model*), the possibility of expanding both permanent and non-permanent membership (the so-called *model of parallelism*), as well as the combination of these solutions (the so-called *regional model*), represent significant sources for a clearer understanding of the political and legal viewpoints of individual states, regional groups, and international organizations on the reform of the Security Council.

ECONOMIC AND SOCIAL COUNCIL

The Economic and Social Council (ECOSOC) is one of the main organs of the UN established by its Charter. ECOSOC was established to create the conditions of stability and prosperity necessary for peaceful and friendly relations among states. This specifically implies the implementation of the goals of the world organization, which are established in Chapter IX of the Charter and which, *inter alia,* refer to the improvement of international economic and social cooperation through increasing the standard of living, full employment and conditions for economic and social progress, solving international economic, social, health and related problems, improvement of international cultural and educational cooperation and respect and appreciation of human rights and fundamental freedoms.[15] Although the implementation of the aforementioned goals is primarily entrusted to the General Assembly, under its auspices, ECOSOC also has the necessary powers that are more closely prescribed in Chapter X of the Charter. As ECOSOC serves as a central forum for the discussion of important international issues related to economic and social development, it has within its mandate the ability to study and prepare reports on international economic, social, cultural, educational, health, environmental and related issues. It has the possibility, in addition to studying the mentioned areas and preparing reports, to make certain recommendations to the General Assembly, member states, and interested specialized agencies. According to Article 62, point 2 of the Charter, this possibility also extends to the area of respect for human rights. On issues within its jurisdiction, ECOSOC makes decisions by a simple majority. In practice, it is usual for ECOSOC to convene international conferences and prepare draft conventions for submission to the General Assembly. It can conclude agreements with specialized agencies that more closely regulate the issues of connecting the agencies with the world organization. Such agreements, according to the letter of the Charter, are subject to the approval of the General Assembly. In carrying out the prescribed tasks, ECOSOC can make certain recommendations to countries and specialized organizations with which it enters into agreements on the submission of reports on the implementation of those recommendations.

[15] Its activities in the field of human rights have been important and led to the adoption by the General Assembly of the Universal Declaration of Human Rights in 1948, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, both in 1966.

With the approval of the General Assembly, ECOSOC may provide services to the Member States and specialized agencies. It can conclude consulting agreements with interested international organizations, non-governmental organizations, and national organizations. In the last mentioned case, the conclusion of the agreement is preceded by consultations with the interested member state of the United Nations (Article 71 of the Charter). Article 65 of the Charter stipulates the possibility for ECOSOC to provide information and assistance to the Security Council at its request. In carrying out its work, the Economic and Social Council is assisted by nine functional commissions for different areas (statistics, forestry, prevention and criminal justice, fight against narcotics, social development, science and technology, sustainable development, women's rights, population, etc.). On the regional level, ECOSOC is assisted by five commissions: *the Economic Commission for Africa* (headquartered in Addis Ababa), *the Economic and Social Commission for Asia and the Pacific* (headquartered in Bangkok), *the Economic Commission for Europe* (headquartered in Geneva), *the Economic Commission for Latin America and the Caribbean* (based in Santiago de Chile), and *the Economic and Social Commission for Western Asia* (based in Beirut). In cases where the need arises, ECOSOC is assisted by other bodies such as standing committees (Committee for Program and Coordination, Committee on Non-Governmental Organizations and Committee on Negotiations with Intergovernmental Agencies) and expert bodies (for issues of geographical names, public administration, international fiscal cooperation, transportation of dangerous goods, economic, social and cultural rights, for indigenous issues, etc.) (Basic Facts about the United Nations, 2011, pp. 14-16).

Since the beginning of the work of this United Nations body, there have been several proposals for its structural reform. Thus, with the entry into force of the Charter on October 24, 1945, ECOSOC had 18 members elected by the General Assembly. With the increase in the number of members of the world organization, a proposal was made to reform the composition of this body. By Resolution of the General Assembly 1991B (18) of December 17, 1963, this proposal was adopted by amending Article 61 of the Charter and increasing the number of members of ECOSOC to 27. The next reform amendment to Article 61 of the Charter was based on the Resolution of the General Assembly 2847 (XXVI) of December 20, 1971, when the number of members was increased to 54. Given that each member of ECOSOC had one representative in the Council, and that each of them had one vote, according to the reform decision that entered into force on September 24, 1973, the representation of the states was supposed to be somewhat fairer because 14 members represented Africa, 11 member – Asia, 10 members – America and

the Caribbean, 13 members – Western Europe and other countries, and 6 members – Eastern Europe (Kreća, 2007, p. 507). However, although the members of the ECOSOC were elected on the basis of geographical representation, and decisions in ECOSOC were made by the majority of votes of the members present and voting, the adopted reform proposals, due to the present political opportunity, did not prove to be fair enough in everything. Therefore, the General Assembly soon adopted Resolution 32/197 of December 20, 1975, in order to make the functioning of ECOSOC somewhat more effective and efficient. Namely, referring to the previously voted Resolutions on the establishment of the New Economic Order and on the Charter on the Economic Rights and Duties of States, the General Assembly, on the proposal of the *ad hoc* Committee for the Restructuring of the Economic and Social Sector of the United Nations, proposed strategic priorities for the functioning of ECOSOC in the economic and social sphere in the coming period. Priorities included coordinating the work of the General Assembly and ECOSOC, as well as improving the efficiency of the entire United Nations system in the field of international economic cooperation (Luck, 2003). At the end of the eighties of the 20th century, there was a new split between the group of developed and developing countries. Thus, the Group of 77 submitted several draft Resolutions to the General Assembly proposing the introduction of universal membership in ECOSOC. Due to the opposition of a group of developed countries (especially P5), the draft Resolutions did not pass the voting procedure. At the 50th session of the General Assembly in 1996, Resolution 50/227 was presented with the new requests for strengthening ECOSOC. For the sake of further restructuring and revitalization of the United Nations system, the General Assembly recommended that ECOSOC continue to strengthen its role as a central mechanism for coordinating the activities of the world organization and its specialized agencies (such as the FAO, ILO, WHO, and UNESCO), and as a body responsible for supervising subsidiary bodies and functional bodies. It also recommended that ECOSOC continue coordinating activities related to the realization of the results achieved at the most important international conferences in the economic and social fields. In the latter period, these recommendations were joined by another one related to assuming a role in the field of managing the global economy. The second round of important reforms of ECOSOC was initiated during the 57th session of the General Assembly in 2003, when the ad hoc Working Group submitted a proposal for a Resolution on coordinated and integrated implementation and monitoring of United Nations conferences. The General Assembly adopted the proposal and passed Resolution 57/270B of 3 July

2003, under the title "Integrated and Coordinated Implementation of and Followup to the Outcomes of the major United Nations Conferences and Summits in the Economic and Social Fields", by which the Economic and Social Council and its subsidiary bodies (first of all, functional-technical and regional commissions), and the bodies, funds, and programs it founded, were entrusted with the role of implementing and monitoring the achieved results in managing the development process of the world organization. Despite the progress achieved in the nineties of the 20th century, the efficiency and effectiveness of ECOSOC were not satisfactory, so in the conclusions of the final document of the jubilee summit of the General Assembly from 2005, paragraphs 155 and 156 mention the need for its further strengthening as well as the adaptation of its functional competences for the purpose of fulfilling the planned development goals. This, in fact, meant that ECOSOC should take on the role of promoter of global dialogue in the economic, social and humanitarian spheres, as well as in the field of environmental protection. In this sense, it should also serve as a qualitative platform at a high level that would enable greater engagement by member states, financial institutions, the private sector, and civil society in advancing development goals. Within the framework of their implementation, ECOSOC should be the organizer of high-level forums for cooperation and development, which would clearly bridge the gap between the normative and operational functioning of the United Nations system. Also, ECOSOC should monitor the achieved results from international conferences, then review reports at annual ministerial consultations and improve the work of functional-technical commissions, regional commissions and other bodies, funds, and programs of the United Nations (World Summit Outcome Document, 16 September 2005).

At the summit, the General Assembly adopted several important resolutions, among which Resolution 61/16 of November 20, 2006, confirming the need to strengthen ECOSOC through the mechanism of reviewing reports on the implementation of the Development Agenda, including the Millennium Development Goals of the United Nations (Annual Ministerial substantive Review) (Strengthening of the Economic and Social Council, GA Res. 61/16, 20 November 2006). The Resolution also instructs ECOSOC to hold a Development Cooperation Forum every other year and to monitor trends and progress in the development of international cooperation, i.e., to monitor the regulation of issues of quality and quantity of aid and to provide guidelines on practical measures and political options on how to improve the coherence and effectiveness of its work. The Resolution also planned that the first annual ministerial review of progress

reports, as well as a forum for cooperation and development, would be held in July 2007 in Geneva (after which the forums would be held in New York). Immediately after the adoption of the aforementioned Resolution, ECOSOC adopted decision E/2006/274 of December 15, 2006, which provided additional modalities for its inclusion in the preparation of the aforementioned meetings. On that occasion, ECOSOC specifically referred to "the role of the United Nations system in promoting full and productive employment and decent work for all". After the mentioned period, ECOSOC was the subject of consultations on the comprehensive reform of the United Nations system. In particular, those consultations considered the possibility of adopting a new Resolution that would elaborate on earlier progress (ECOSOC Decision, 10 February 2006).

With the outbreak of the world economic crisis, the center of gravity of economic problems was transferred to the jurisdiction of the G-20 group. This situation was also contributed to by the attitude of some developing countries that global economic problems should be solved outside the United Nations system in the future, which additionally raised questions about the role of the world organization in the globalized system of managing the world. At the conference of the United Nations General Assembly held in July 2009, which was dedicated to financial and economic crises, the role of ECOSOC was elaborated. The member states agreed that it is necessary to support the coordinated responsibility for the development of the United Nations system by implementing the adopted documents in order to help the consensus regarding the implementation of policies related to the world economic and financial crisis and their impact on development. At the conference, ECOSOC was asked to send recommendations to the General Assembly in accordance with the provisions of the Doha Declaration, adopted on December 2, 2008, regarding the strengthening of the development financing process. Also, ECOSOC was required to examine the possibility of strengthening institutional arrangements in order to promote international cooperation in the field of fiscal policy, as well as in the field of cooperation with international financial institutions. After that, the General Assembly adopted Resolution 63/303 of July 13, 2009, which recommended the establishment of an ad hoc Panel of Experts to analyze and provide technical expertise on overcoming the world economic and financial crisis. As a result of the above, it is clear that significant progress was made in the reform of ECOSOC in the earlier period. However, it seems that in recent years, due to the negative impact of the global economic and financial crisis, this organ of the United Nations has remained quite marginalized. Certain limitations arising from the structure of the world

economy, changing interests of developing countries and still-present ideological conflicts between the member states of the world organization contributed to this. ECOSOC, one of the main organs of the United Nations, therefore became more and more a forum for the discussion of the Agenda for Sustainable Development and the Millennium Development Goals between the countries of the South, which did not share the interests of the developed countries of the North and which advocated solving the world's most important economic issues outside the institutional framework of the United Nations. In order for ECOSOC to regain its authority, i.e., to revitalize its role and place in the world economic and social system, it will most likely be necessary to develop cooperation with the most important international financial organizations and the World Trade Organization, but also to consolidate the mechanism for reviewing reports on the implementation of development goals and biennial forums for cooperation (Chimni, 2011, pp. 48-54). In this regard, the General Assembly also contributed with Resolutions 68/1, 72/305 and 75/290A, which strengthened the role of organization in identifying new global challenges, promoting innovation, and achieving a balanced integration of the three pillars of sustainable development — economic, social, and ecological. This was of great importance for the cooperation established between ECOSOC and the High-Level Political Forum on Sustainable Development (HLPF), whose formation was envisaged in the final document of the United Nations Conference on Sustainable Development (Rio+20), "The Future We Want", in 2012.

TRUSTEESHIP COUNCIL

After the Second World War, the Charter of the United Nations recognized the rights of colonial peoples to emancipation and self-determination. These rights were gradually realized in practice through the process of decolonization, whose legal foundations are established by Chapter XI and Chapter XII of the Charter regulating the status of Non-Self-Governing and Trust Territories. The decolonization of Non-Self-Governing Territories included colonial areas with a status separate from the territories of administrative states responsible for providing assistance in the political, economic, social and educational progress of the colonial population and in the gradual development of their political institutions. On the other hand, the trusteeship system was established for former colonial mandates, territories seized from enemy states after the Second World War, and territories voluntarily placed under the system of trusteeship by states

responsible for their administration. The system had the task of providing assistance not only in the political, economic, social, and educational development of the population but also in acquiring a greater scope of self-government and independence.[16] In a functional sense, the member states of the United Nations have undertaken to regularly submit reports to the Secretary-General of the United Nations, as well as statistical and other technical data concerning the economic, social, and educational conditions of Non-Self-Governing Territories. The obligation to report prescribed by the Charter was part of the mechanism by which the General Assembly controlled the implementation of the decolonization process in these areas. In relation to the exercise of trusteeship functions, Chapter XIII of the Charter prescribed the special responsibility of the Trusteeship Council, as one of the main bodies of the United Nations responsible for all Trust Territories, except for strategic ones, which remained under the jurisdiction of the Security Council. The Trusteeship Council had the ability to consider reports, receive and examine petitions, and compile questionnaires on the progress of the population of the Trust Territory, as well as to perform other functions in accordance with the provisions of the Trusteeship Treaty concluded by the Trustees and the United Nations for five or ten years. After the expiration of the term, the General Assembly had the possibility to take into consideration the newly created situation (the level of development of the people and their capacity for self-government, the possibility of raising a higher degree of independence and declaring independence). Through the work of the Special Committee on Decolonization, which was established by the General Assembly in 1961 with the task of fulfilling the goals set out in the Declaration on Granting Independence to Colonial Countries and Peoples adopted the previous year, in 1960, the decolonization process was accelerated, which led to a drastic decrease in the number of Non-Self-Governing Territories at the beginning of the 21st century. Based on the freely expressed will embodied in the right to self-determination, most of the 72 Non-Self-Governing Territories gradually gained self-government by

[16] The trusteeship system was established over eleven areas, namely Togo and Cameroon, which were divided into French and British parts; over Tanganyika, which belonged to Great Britain; over Somalia, which belonged to Italy; over Western Samoa, which belonged to New Zealand; over Rwanda-Urundi, for which responsibility was assumed by Belgium; over New Guinea and Nauru, administered by Australia; and over strategic islands in the Pacific that were claimed by the United States of America.

free association and integration with already independent states or by gaining complete independence through various forms of political struggle (from violent rebellions, waging liberation wars and revolutions, to organizing peaceful plebiscite declarations). On the other hand, the Trust Territories gained more or less self-government after a plebiscite (for example, Togo in 1958, Cameroon in 1960, Tanganyika in 1961, Rwanda, Burundi, and Samoa in 1962, Nauru in 1968, and Papua New Guinea in 1975). That is, the trusteeship was definitively ended over Namibia, the Marshall Islands, and the Federated States of Micronesia in 1990, as well as over the Pacific Islands of Palau in 1994, which led to the suspension of the work of the Trusteeship Council (Dimitrijević, 2008b, pp. 107-114).

INTERNATIONAL COURT OF JUSTICE

The International Court of Justice is the main judicial body of the United Nations, whose seat is in The Hague (Netherlands). It is also the most authoritative judicial body in the world, competent to judge only states. Since 1946, the International Court, as a legal successor of the Permanent International Court of Justice, which existed between the two world wars within the framework of the League of Nations (whose body it was not otherwise), acts as an independent judicial body of the United Nations. Its composition consists of fifteen judges elected by the General Assembly and the Security Council on the basis of their qualifications, taking into account geographical representation and the representation of all major legal systems in the world. The International Court of Justice otherwise acts in accordance with the Statute as an integral part of the UN Charter and Rules of Court. With specific competences within the universal international legal order established by the Charter of the United Nations, the International Court of Justice has a decisive role in resolving legal disputes and providing advisory opinions on legal issues (Račić, 1995, pp. 110-128). According to the prescribed procedural rules, the International Court of Justice in all presented disputes first examines the existence of its own "mainline jurisdiction", and when it determines that this jurisdiction exists, it takes over the resolution of the case or the substance of the dispute (makes a decision *in meritum*) (Gill, 2003, pp. 67, etc.). The assessment of the fulfillment of the conditions necessary for the establishment of jurisdiction is all the greater if the Court, in its decisions, considers all aspects of judicial jurisdiction related to personal, real and temporal jurisdiction *(jurisdictio ratione personae, jurisdictio ratione materiae,* and *jurisdictio ratione temporis).* In assessing the existence of personal jurisdiction, the International Court of

Justice acts according to the rule established in the provision of Article 34, paragraph 1 of the Statute, which stipulates that only states can be parties to disputes brought before it *(jus standi in judicio).* (Janković & Radivojević, 2011, p. 403).[17] In this sense, the Court examines the conditions prescribed in Article 93 of the Charter of the United Nations and Article 35 of the Statute, according to which the Court is available to member states of the United Nations that are *ipso facto* parties to the Statute, but also to non-member states that can become parties to the Statute under the conditions that are determined in each individual case by the General Assembly on the recommendation of the Security Council.[18] Given that the principle of sovereign equality allows states the freedom to choose peaceful ways of resolving disputes, and states that are not members of the world organization, that is, that are not parties to the Statute, can bring their disputes before the Court under the conditions determined in each case by the Security Council, adhering to the special provisions contained in the contracts in force and taking into account the equality of the parties to the dispute.[19] The aforementioned rule derives from the general jurisdiction of

[17] International organizations cannot be parties to proceedings before the International Court of Justice. Litigation parties cannot be their bodies either. However, international organizations can request advisory opinions from the Court through the General Assembly, which confirms that international organizations have procedural capacity. In certain cases, the Court is authorized to request information from public international organizations regarding disputes before it, as well as to receive information from organizations that submit them on their own initiative. The Statute and Rulebook do not mention the possibility of an individual appearing before the Court. However, the countries of which they are nationals can protect their interests before the Court. From the moment a state appears before the Court on behalf of its citizens, the Court recognizes only the state as a litigant.

[18] For states that are not members of the United Nations, but are parties to the Statute, those conditions are formulated in the General Assembly Resolution 91 of December 11, 1946, and refer to the declaration of acceptance of the provisions of the Statute, obligations prescribed in Art. 94 of the Charter, along with obligations from Articles 25 and 103, as well as the financing of the International Court of Justice. Such was the case with Switzerland, Liechtenstein, Japan, San Marino, and Nauru before joining the world organization.

[19] For states that are not members of the United Nations, nor parties to the Statute, the rule established by Security Council Resolution 9 of October 15, 1946, which requires a declaration to the Court Secretariat on acceptance of jurisdiction in relation to a specific case or in general. In the latter case, there is a possibility of accepting compulsory jurisdiction.

the International Court of Justice, which is covered by the Charter of the United Nations or valid international treaties (Article 36, Paragraph 1 of the Statute). In principle, the Court's jurisdiction extends to all disputes brought before it by the parties. Since the states are the only ones that can appear before the Court, it follows that the Court is ex officio obliged to determine whether the states have given their consent, as well as whether that consent is conditioned by certain reservations.[20] It clearly follows from this that the jurisdiction of the Court is conditioned by the principle of consent of the parties (The International Court of Justice, Questions and Answers, 2000, pp. 25-46). Generally speaking, the Court's jurisdiction is constituted by an agreement, either in advance, to resolve all or certain disputes that may arise in the future, or by concluding international agreements or conventions that stimulate a special compromissory clause, which leaves disputes regarding their interpretation or application to judicial decision-making. (so-called *ante hoc* jurisdiction). The agreement can stipulate the jurisdiction of the Court on a case-by-case basis (the so-called *ad hoc* jurisdiction), or the agreement can be reached in the event of unilateral declarations of will to accept the compulsory jurisdiction of the Court on any issue of international law (when states accept the so-called facultative or optional clause from Article 36, Paragraph 2 of the Statute) (Hambro, 1948, pp. 133-137; Merrills, 1979, p. 87; Shaw, " 1997. pp. 219. etc.).[21] Only in exceptional cases (the Mavrommatis

[20] Reservations can be essential and concern the exclusion of disputes with certain states *(ratione personae),* then the exclusion of disputes regarding issues that are considered to fall within the domain of the internal competence of states *(ratione materiae),* or they can refer to the exclusion of disputes whose factual basis is created before a certain date that is not covered by the optional statement *(ratione temporis*).

[21] According to the provisions of Article 36, paragraph 2, the Statute stipulates that states can at any time declare that they recognize *ipso facto,* and without a special agreement towards any other state that receives the same obligation - the jurisdiction of the Court in all legal disputes that have as their subject: a) the interpretation of a contract; b) any issue of international law; c) the existence of any fact that, if established, would represent a violation of an international obligation; d) the nature or size of the due compensation due to the violation of an international obligation. The majority of the United Nations members did not accept the compulsory jurisdiction of the International Court of Justice, which shows the discrepancy between the positions expressed on the general plan and the readiness of the states to accept the compulsory jurisdiction of the Court. At the same time, it should be noted that four of the five permanent members of the Security Council are among them. The optional clause binds only Great Britain as a permanent member of the Security Council.

Jerusalem Concessions Case and the Case of German settlers in Upper Silesia before the Permanent Court of International Justice), tacit establishment of Court jurisdiction is possible *(forum prorogatum)* (Publications of Permanent Court of International Justice, 1923; 1925).[22] According to Article 36, paragraph 6 of the Statute, the International Court of Justice decides on its own jurisdiction in any case in which there is a dispute on that issue *(compétence de la compétence)* (Shihata, 1965, pp. 27-30). As for the method of determining substantive jurisdiction, the International Court of Justice, as a rule, determines its existence *ex officio*, whose domain includes resolving disputes in inter-state proceedings and giving advisory opinions. The subject matter of the dispute should concern the rights or interests based on the legal basis of the party filing the claim. The right or interest must be established by a valid rule binding the parties to the dispute. All presented disputes are resolved by the International Court of Justice in accordance with international law, according to the rule from Art. 38 of the Statute, where the following sources are at his disposal: a) conventions, whether general or special, establishing rules expressly recognized by the states in dispute; b) international customs as evidence of general practice accepted as law; c) general legal principles recognized by civilized nations; d) auxiliary sources contained in court decisions and doctrines of the most renowned public law experts of various nations. The application of the aforementioned legal sources does not prejudice the right of the Court to apply and resolve the dispute *ex equo et bono*, if the parties to the dispute agree to it (Article 38, Paragraph 2 of the Statute). In the context of a fair trial, every Court decision would have to be fair, which in principle does not go beyond the framework of positive international law (International Court of Justice Reports, 1969, p. 48).[23] In the case of accepting the settlement of the

[22] The fact that one party did not accept the jurisdiction of the Court at the beginning of the proceedings does not automatically lead to the situation that the Court declares itself incompetent. Namely, in the further course of the proceedings, the other party can recognize and accept the jurisdiction of the Court. In the case of minority schools in Upper Silesia, the Court pointed out that the consent of the state to resolve the dispute before the Court does not necessarily have to be expressed explicitly, but can be achieved tacitly through conclusive actions. The establishment of judicial jurisdiction tacitly during the proceedings *(forum prorogatum)* is an institution taken over from classical Roman law.

[23] In the context of the dispute regarding the delimitation of the continental shelf in the North Sea between Denmark and FR Germany, and then FR Germany and the Netherlands, the International Court of Justice determined that the establishment

dispute *ex equo et bono*, these frameworks would certainly be moved by the subjective perception of the fairness of the members of the judicial panel, which, considering the mistrust that exists between the parties in the dispute, has not been practically possible until now. After finding that it has personal and substantive jurisdiction in the case in question, the International Court of Justice proceeds to determine the limits of temporal jurisdiction. In this respect, the Court's temporal jurisdiction is a reflection of these two jurisdictions (International Court of Justice Reports, 1960, p. 34). As a matter of principle, the International Court of Justice starts from an extensive interpretation of temporal jurisdiction because it accepts a rebuttable presumption of retroactive validity of the legal basis on which its personal and substantive jurisdiction is based (International Court of Justice Reports, 1999, pp. 552, etc.).[24] Extensive interpretation of provisions from international treaties and agreements regarding the establishment of temporal jurisdiction does not formally affect legal certainty. This is all the more so because contracts and agreements do not subsequently constitute responsibility that did not exist at the time when certain acts were committed, but procedurally determine the existence of material

of rights represents the establishment of justice in the objective sense, which specifically means that decisions must not be outside the law but in accordance with it, and that in that context, when deciding, the Court refers to fair principles.

[24] In a case before the International Court of Justice that concerned the legality of the use of force for states that accepted jurisdiction within the optional clause (Belgium, the Netherlands, Portugal, and Canada), the Court found that the declaration of the FR Yugoslavia of April 25, 1999 could constitute a basis for establishing compulsory jurisdiction only for disputes that have already arisen and disputes that could arise after its signing. Consequently, the Court concluded that it could exclusively refer to situations or facts that occurred after April 25, 1999. Considering the issue of *prima facie* jurisdiction, the Court stated the following: "Given that, on the one hand, FR Yugoslavia expected the Court to accept jurisdiction *ratione temporis* for already existing disputes or disputes that may arise after the signing of the declaration, on the other hand, and in relation to the facts and situations arising after this signing, in order to assess whether the Court has jurisdiction in the case in question, it would be sufficient to determine in the context of its content whether the presented dispute arose before or after April 25, 1999, as the date when the declaration was signed". Hence, the Court concluded that the bombing began on March 24, 1999 and continued continuously until and after April 25, 1999, and since there is no mutual consent, the declarative statements of the parties do not constitute a legal basis for the constitution of *prima facie* jurisdiction.

responsibility on the basis of legal rules that were in force at that time frame, but were not applied (Kreća, 2007, 530).

The procedure before the International Court of Justice, as part of the universal legal system of the United Nations, begins with the announcement of the agreement on the establishment of the jurisdiction of the Court and the filing of a lawsuit. According to the provisions of Article 43 of the Rules of Court and Article 63, paragraph 1 of the Statute, the announcement is sent to all states that are not parties to the dispute. As a rule, the announcement is accompanied by a cover letter from the Minister of Foreign Affairs or the ambassador of the country that is a party to the proceedings and that is accredited in The Hague. The lawsuit is signed by the representative or diplomatic representative of the party in the proceedings who is accredited in The Hague. It is entered into the General List, which officially starts the litigation. Pursuant to Article 40, paragraph 2 and paragraph 3 of the Statute of the International Court of Justice, the Secretary of the Court forwards the statement or lawsuit to the defendant party, so that the information will then be forwarded through the Secretary-General of the United Nations to all other states that are authorized to appear before the Court of appeal. The parties in the proceedings before the Court are represented by legal agents, advisers, and lawyers. In the course of the proceedings, it often happens that the Court decides on the so-called *previous issues, provisional measures,* and *interventions*. As a rule, this stage of the procedure is shortened and, in the practice of the Court, it means an *incidental proceeding* in relation to a *contentious proceeding* in which the Court discusses the subject of the dispute. The Court decides on the previous questions based on the objections of the parties. As a rule, in such cases, the Court can end the dispute by accepting the previous objection, or it can reject the objection and continue with the procedure. In certain cases when objections do not have a previous nature, the Court can decide on them when making a decision on the subject of the dispute. Based on Article 41, paragraph 1 of the Statute, the International Court of Justice is authorized to indicate, if it considers that the circumstances require it, all provisional measures that should be taken in order to secure the rights of one or the other party to the dispute. The procedural and legal elaboration of this possibility is contained in the provisions of Article 73 to Article 78 of the Rules of Court, according to which the Court is obliged to act urgently in this incident phase of the procedure when passing orders on provisional measures at the request of one of the parties to the dispute or *proprio motu,* if the situation so dictates, before deciding on other claims of the parties. The ultimate goal of this option is to preserve the existing situation without worsening the disputed situation, or to eliminate the real

danger to the rights and interests of the parties to the dispute. In the course of the proceedings conducted before the International Court of Justice, it is possible for states to intervene when they consider that their legal interests are also being resolved in the subject matter of the dispute. A state that has a legal interest in intervening in an ongoing dispute under Article 62 of the Statute must submit a submission to the Court with a request for intervention. In addition to this case, based on Article 63 of the Statute, the intervention of a state that is a party to a multilateral agreement or convention that is the basis of the Court's jurisdiction is also possible. In such a case, the Court allows the state to intervene by depositing a declaration with the Registry of the Court. For all intervening states that will intervene in the current dispute before the International Court of Justice, the decision of the Court is legally binding. After this phase of the proceedings, the International Court of Justice continues the main proceedings through the written and oral phases. In the written phase, which is generally confidential in nature, there are systems for simultaneous and consecutive submissions. The simultaneous system is applied in the case when the jurisdiction of the Court is established on the basis of the announcement of the agreement on the establishment of its jurisdiction. In such cases, the parties submit written documents according to the order established in the agreement itself. In the consecutive system that is initiated by a claim, the Court, by its orders, determines the deadlines for submitting written submissions. Thus, the plaintiff submits a Memorial, a written submission with an explanation of the claim, and the defendant submits a Counter-Memorial, a submission with a written explanation of the response to the claim. In the continuation of the procedure, the Court can instruct the plaintiff to submit a Reply. That is, when it deems necessary, it can instruct the defendant to submit a reply to the reply, i.e., a Rejoinder. In the oral phase of the proceedings, the Court hears the parties to the proceedings, their legal agents, advisers, lawyers, witnesses, and experts. The court determines the order of the hearing if it is not determined by the agreement of the parties. At the end of the hearing, the Court issues a verdict that is final and legally binding for the parties to the proceedings.[25] In principle, the International Court of Justice makes a

[25] In the event that a party to the dispute does not respect the verdict, the other party reserves the right to address the Security Council, which, if deemed necessary, may, in accordance with Article 94 of the Charter, make recommendations or decide on the measures to be taken to implement the verdict. In practice, however, there may be deviations regarding the delivery of court decisions. It is a well-known example

judgment regarding the subject matter of the dispute and, in some cases, also regarding the previous issue. In certain cases, the Court issues judgments in absentia. When there are different interpretations of the scope and meaning of judgments, the Court is authorized to make the so-called *interpretative judgments.* In such cases, however, the International Court of Justice is bound by its provisions, the limits of which are limited *ad infinitum* by compromise. In practice, the judgments of the Court may or may not express a single view of the panel of judges. If the judgments do not express a unified position, the judges can either separate their individual opinions in relation to the explanation of the judgment or they can also give their dissenting opinions if they do not agree with the sentence and the explanation of the judgment. When, after the pronouncement of the judgment, new facts are discovered that are of such a nature that they would have been decisive when the judgment was pronounced but were unknown to the Court, it is possible to initiate a revision procedure (International Court of Justice Press Release, 24 April 2001).

In certain cases where there are disagreements between member states or certain organs of the United Nations regarding certain issues that can paralyze the work of the world organization, solutions are sought in the advisory opinions of the International Court of Justice (International Court of Justice Reports, 2010; 2004). Based on Article 96 of the Charter and Article 65 of the Statute, the General Assembly and the Security Council are authorized to request an advisory opinion on any legal issue. This can be done by other organs of the United Nations and specialized agencies if they are authorized to do so by the General Assembly. In the procedure of giving advisory opinions, the rules prescribed for the main procedure apply *mutatis mutandis.* However, unlike the main proceedings in which the subject of the dispute is discussed and where there are parties to the proceedings, in the proceedings of providing advisory opinions, litigants *stricto sensu* do not exist. The role of states, international organizations, and organs of the United Nations is reduced to that of *amicus curiae.* In the procedure, there are no

that the United States of America refused to implement the judgment of the International Court of Justice of June 27, 1986, in the case of military and paramilitary activities in and against Nicaragua. Because of this fact, Nicaragua invoked Article 94, paragraph 2 of the Charter, as well as the practice of supporting permanent members of the Security Council (France and Great Britain), which does not prohibit the adoption of a Security Council Resolution. The final decision of the Security Council was not adopted due to the veto of the United States of America.

strict procedural actions that are unique to the contentious procedure. In a procedural sense, this procedure ends with the issuance of an advisory opinion at a public meeting, the holding of which has been previously notified to the competent bodies of the world organization, as well as representatives of the states and international organizations to which the opinion refers. Advisory opinions are not binding unless there is an agreement between the parties accepting their binding force.[26] Considering that the International Court of Justice enjoys a high degree of authority as the supreme judicial body of the United Nations, states, international organizations, and bodies of the world organization principally strive not to act contrary to the views expressed in its advisory opinions.[27] Finally, like judgments, advisory opinions should contribute to the improvement and completion of the international legal order. The task of the Court does not end when a dispute or disputed situation is resolved by a verdict, i.e., when an advisory opinion is given on a certain legal issue, but when the execution of court decisions has led to the more efficient and effective functioning of the international legal order. Trust in the settlement of disputes before the International Court of Justice is undoubtedly related to the nature of international law. Given that international law has constantly evolved in the past period, its adaptation to current situations has been correlated with the increased needs of states in their mutual relations. By interpreting international legal rules and principles in certain cases, the Court has contributed to their clarification and application in practice. In this sense, Court decisions related to the examination of various aspects of international public and private law, internal legal systems, and the law of international organizations, contributed to the codification and progressive development

[26] Article 8 of the Convention on the Privileges and Immunities of the United Nations stipulates, among other things, that "if differences arise between the United Nations, on the one hand, and a member, on the other hand, an advisory opinion shall be sought on any legal question in accordance with Article 96 of the Charter and Article 65 of the Statute of the International Court of Justice. The opinion will be accepted as instructive for the parties to the dispute". Hence, the obligation to respect the advisory opinion does not derive from the legal nature of the opinion, but from the contractual provision.

[27] The extensive interpretation of the Charter led to the situation where the International Court of Justice is perceived in practice as an appellate court. Thus, the Committee for the Review of Judgments of the United Nations Administrative Court can ask the International Court of Justice for an advisory opinion that is legally binding on the parties.

of international law. Thus, for example, in the matter of the prohibition of the use of force and the threat of force in international relations, immediately after the adoption of the Charter in the dispute between Great Britain and Albania over the Corfu Channel, the Court confirmed that the policy of force as such had been the cause of numerous abuses in the past, and that in the current circumstances, regardless of the present deviation in the international organization, it cannot find a place in international law (International Court of Justice Reports, 1949). In a case concerning military and paramilitary activities in and against Nicaragua, the Court confirmed the customary nature of this rule, while at the same time giving explanations regarding the possibility of applying the right to self-defense (International Court of Justice Reports, 1986). Regarding the case of Israel's construction of a wall in the occupied Palestinian territory, the Court issued an opinion in which it confirmed its previously expressed position on the right to self-defense (International Court of Justice Reports, 2004). In the famous case concerning decolonization, related to the emancipation of Southwest Africa and Namibia, the International Court of Justice underlined the importance of the principle of self-determination in the context of the protection of basic human rights, which had wider political implications in the development of international relations (International Court of Justice Reports, 1966; 1971). This was evident both in the case of East Timor and in the case of the legal consequences of building a wall in the occupied Palestinian territory, where the Court recognized that "the right of peoples to self-determination derives from the Charter and practice of the United Nations and that it has an erga omnes character", i.e., that "one of the possible principles of contemporary international law" (International Court of Justice Reports, 1995; 2004). In the largest number of cases that were submitted for judicial settlement, the International Court of Justice decided on territorial disputes. Specifically, the Court ruled on the existence of sovereignty over a certain area, on establishing the existence of certain international obligations regarding territories (non-violation of airspace, respect for the right of passage, etc.), the status of territories under international administration (trusteeship and Non-Self-Governing Territories and internationalized territories), and on establishing and delimiting international borders. In addition to the above, the Court also dealt with other issues in its practice, as indicated by the rich judicial jurisprudence in the area of determining state responsibility for international illegal acts, in the area of diplomatic and consular relations, in the matter of respecting the rights of citizenship, asylum, the rights of international treaties, the rights of international organizations, environmental protection rights, etc.

SECRETARIAT

The Secretariat is the most important administrative body of the United Nations, with headquarters in New York and representative offices in Geneva, Vienna, and Nairobi.[28] Structurally, the Secretariat is organized into a wide network of offices and departments around the world (e.g., in Addis Ababa, Bangkok, Beirut, Santiago de Chile, etc.), in which staff are recruited according to the highest standards of efficiency, expertise and diligence, with due attention to equitable geographical distribution in accordance with Article 101 of the Charter. The staff of the Secretariat enjoy the status of international officials and are responsible only to the United Nations for their activities. Staff members enjoy operational independence and cannot take instructions from any government or external authority. In return, under the Charter, each member state undertakes to respect the exclusively international character of the responsibilities of the staff members of the Secretariat and to refrain from attempting to influence them in an inappropriate manner. The functions of the Secretariat include various activities within the competences of the main bodies of the United Nations. The Secretariat participates in activities ranging from managing peace operations, mediating international disputes, and organizing humanitarian aid programs to researching economic and social trends, preparing studies on human rights and sustainable development, and laying the foundations for international agreements. The staff of the Secretariat have outreach duties to inform the world media, governments, non-governmental organizations, research and academic networks, and the general public about the activities

[28] The legal status of the headquarters of the UN in the City of New York was regulated by the Agreement between the United Nations and the United States regarding the Headquarters of the United Nations. The Headquarters District is inviolable and is put under the control and authority of the United Nations as provided in this Agreement. Although US federal, state, and local law remain applicable in the District, it may be superseded by UN regulations. United States officers and officials may not enter the District to perform official functions except with the consent of the Secretary-General. The United Nations Office at Geneva (UNOG) is a centre for conference diplomacy and a forum for disarmament and human rights. The United Nations Office at Vienna (UNOV) is the headquarters for activities in the fields of international drug abuse control, crime prevention and criminal justice, the peaceful uses of outer space and international trade law. The United Nations Office at Nairobi (UNON) is the headquarters for activities in the fields of the environment and human settlements.

of the world organization. Their duties also include organizing international conferences on issues of global importance; interpreting speeches and translating documents into the official languages of the world organization; the establishment of a clearing house for information and development of international cultural, scientific, and technological cooperation.

The Secretariat is headed by the Secretary-General as "chief administrative officer" of the United Nations. The Secretary-General is also a symbol of the ideals of the world organization and a spokesperson for the interests of the people of the world. The Secretary-General is elected every five years by the General Assembly on the recommendation of the Security Council. He enjoys formal independence in the performance of his functions in relation to the states from which they come. The Secretariat with the Secretary-General has administrative powers that consist of coordinating the work of the main bodies of the world organization for whose needs it prepares information and reports, as well as the biennial budget plan necessary for financing their activities. This body is responsible for representing the world organization in international relations, which, in addition to administrative functions, also performs certain political functions. Political powers derive from Article 12, according to which the Secretary-General informs the General Assembly of all matters concerning the maintenance of international peace and security dealt with by the Security Council. Based on Article 99 of the Charter, the Secretary-General "may draw the attention of the Security Council to any issue that, in his opinion, may threaten the preservation of international peace and security". According to the Charter, the Secretary-General therefore has very limited powers to perform those political duties that are formulated in specific situations by the bodies responsible for maintaining world peace and security. Thus, the Charter does not give the Secretary-General the right to undertake specific actions regarding the peaceful resolution of disputes and preventive diplomacy. However, this situation changed over time, and especially after the end of the Cold War, the role of the Secretary-General became much more sensitive and complex due to the ever-widening involvement of the administrative apparatus in solving a wide range of issues (from regulating international crises by providing good offices directly or through its special representatives and emissaries around the world, organizing and managing numerous peace operations, to collecting information and reports and consultations with representatives of the governments of member states regarding the implementation of adopted decisions). In the doctrine of international law, it is considered that his extended powers implicitly derive from the provision of Article 98 of the

Charter, according to which the main organs of the United Nations can entrust the Secretary-General with the performance of functions within their competences (Frowein, 2000, p. 1031). The transfer of competence to the Secretary-General as the highest administrative officer of the United Nations in practice meant assuming the authority of the moderator and, at the same time, the catalyst of world politics. Many departments and offices were formed precisely on that occasion to enable the Secretary-General to perform these new tasks and functions, such as the Department of Economic and Social Affairs (DESA), Department of Field Support (DFS), Department for General Assembly and Conference Management (DGACM), Department of Management (DM), Department of Political Affairs (DPA), Department of Public Information (DPI), Department of Peacekeeping Operations (DPKO), Department of Safety and Security (DSS), Office for the Coordination of Humanitarian Affairs (OCHA), Office of Internal Oversight Services (OIOS), and Office of Legal Affairs (OLA), etc. The mentioned tendencies towards the expansion of the powers of the Secretary-General took place in accordance with the reform tendencies and the strengthening of the capacities of the United Nations as a whole.

The first significant reform proposals to ensure greater authority, flexibility, and discretionary powers of the Secretariat were presented by the Secretary-General of the World Organization, Kofi Annan, in the well-known documents, Agenda for Peace from 1992 and Agenda for Development from 1994 (Reports of the Secretary-General, 17 June 1992; 3 January 1995; 6 May 1994). In elaborating the presented proposals, the Secretary-General formulated priority areas for the reform of the world organization (peace and security, economic and social issues, humanitarian issues and tasks, development and human rights). In 1997, the Secretary-General tasked the executive committees with their implementation, while also presenting the United Nations reform program, which, considering certain far-reaching changes, was revolutionary compared to all other initiatives presented up to that time. The program included a two-track reform program: first of all, the reduction of budget costs through the merger of several smaller departments into the Department of Economic and Social Affairs; and second, the appointment of the Deputy Secretary-General (Renewing the United Nations, 14 July 1997). In 2002, the Secretary-General presented several other proposals, *inter alia,* for the reorganization of the budget system, for the improvement of the United Nations program, for the improvement of the protection of human rights, for the improvement of the information service and cooperation with civil society (Strengthening the United Nations, 9 September 2002). After that, in 2005, the Secretary-

General specified several reform proposals concerning the formation of an office to support peace building, the establishment of cabinet decision-making, and the strengthening of the intermediary role of the Secretariat. As part of the comprehensive reform package, the Secretary-General requested that within the Fifth Committee of the General Assembly for administrative and budgetary issues, an agreement be reached regarding the financing of the improvement of the institutional and management mechanisms of the Secretariat. Insisting on greater powers and flexibility, the Secretary-General sought to strengthen the role of the home office. He particularly advocated that the final decision be adopted by consensus at the next summit. At the anniversary Millennium + 5 Summit held in September 2005, the General Assembly addressed problems related to the implementation of the Millennium Development Goals, which included, among others, the goal of strengthening management and coordinating the operational activities of the world organization. The following issues were on the agenda of the General Assembly: human resources management; improvement of information technology infrastructure; introduction of more effective and efficient practices of the Secretariat; a reaffirmation of the role of the Secretary-General; protection of personnel, and formation of an ethics service and an independent office for internal supervision (Martinetti, 2008). In the World Summit Outcome Document, certain conclusions were made that required the strengthening of management and monitoring programs. Special emphasis was placed on issues relating to mandates older than five years (in the General Assembly, the Security Council, and the Economic and Social Council). Since the last mandate check was carried out in 1953, when the Secretary-General was Dag Hammarskjöld, it was necessary to leave that work to a specialized body, so a decision was made to form an ad hoc Working Group of the General Assembly for mandate issues. The task of verifying the mandate later turned out to be much more complicated than it appeared at first glance. In March 2006, the Secretariat published a report proposing a review of around 7,000 mandates older than five years. Moreover, in the assessment, it is stated that this figure goes up to 9,000 mandates if mandates issued in the last five years were included in the existing number! There was no agreement on this issue because the countries from the Group of 77 and China took the position that only mandates older than five years that have not been renewed by a new Resolution of the General Assembly can be subject to examination. On the other hand, developed countries such as Japan, the United States of America and members of the European Union insisted on reviewing all mandates older than five years, regardless of whether these mandates were renewed

or not. In order to speed up the process, the ad hoc Working Group began its session in June 2006. In the first phase, it examined only mandates that had not been renewed and were older than five years (a total of 399 mandates). Considering the numerous reservations about the findings of the Working Group expressed by the members of the Group of 77, the beginning of the process was quite difficult. Namely, the Group of 77 and China, convinced that this review hides the intention to manipulate politically sensitive mandates, insisted that the funds of the world organization be redirected to the field of development. On the other hand, the United States of America insisted that the funds be used exclusively for real needs in order to speed up the implementation of the reform of the Secretariat. A certain number of member states also proposed austerity measures for the purpose of strengthening certain mandates. Finally, in October 2006, the first phase of the mandate review concluded with the finding that only 74 allocated mandates met the required criteria. In November 2006, the ad hoc Working Group began reviewing mandates older than five years that were renewed by one of the Resolutions of the General Assembly. Although the work in the second phase was divided into thematic areas (for example, the areas of crime prevention, the fight against terrorism, and control of drug trafficking), no greater success was achieved. Taking into account the demands of the world summit in 2005, and starting from the fact that the administrative apparatus of the United Nations has become largely fragmented and ineffective, the Secretary-General formed the Redesign Panel on the UN Internal Justice System in January 2006, which in July of the same year submitted a report with specific recommendations on achieving a more independent, efficient, and effective internal judicial system in the following medium-term period. In February 2006, the Secretary-General formed the High-level Panel on United Nations System-wide Coherence in the Areas of Development, Humanitarian Assistance, and the Environment. The panel was tasked with making a comprehensive analysis necessary for the improvement of the mentioned areas, as well as providing recommendations for further reform of the administrative apparatus of the United Nations. After examining the current situation, the High Panel, composed of 15 high-ranking representatives of states and governments, as well as experts from member states, made certain recommendations that were submitted to the General Assembly in November 2006 in the form of a report by the Secretary-General. The report suggests that countries should continue to work together to further unify the system of management, financing, and administration of the United Nations in such a way that the world organization acts more efficiently and

responsibly in order to implement a unified strategy and realize the agreed development goals (Report of the Secretary-General's High-Level Panel, 9 November 2006). Before the aforementioned report, in March 2006, the Secretary-General submitted to the General Assembly a report entitled "Investing in the UN: For a Stronger Organization Worldwide". The Report underlines the need to implement reforms of the Secretariat in the next three to five years. In order to improve the efficiency, effectiveness, and responsibility of this and other administrative bodies of the world organization, in December 2006 the Secretary-General submitted another significant report to the General Assembly entitled "Comprehensive Review of Governance and Oversight within the United Nations and its Funds, Programs and Specialized Agencies" (Report of the Secretary-General, 22. December 2006). In 2007, taking over the duties of the Secretary-General, Ban Ki-moon relied on the earlier reports and reform proposals of Kofi Annan, while presenting at the same time his personal suggestions and observations in his speech at the 62nd session of the General Assembly entitled: "Stronger United Nations for a Better World" (Ban Ki-moon, 2007). Starting from the capacities available to the world organization, Ban Ki-moon emphasized the necessity of strengthening the United Nations, expanding the responsibility of the Secretariat, and the entire administrative infrastructure, in order to achieve a greater reputation for the entire United Nations system (Blanchfield, 2011, p. 10).[29] Due to the existence of differences between the countries of the North and the South, that is, between developed and underdeveloped countries regarding the improvement of the work of the Secretariat, it was not possible to reach a consensus. For the countries of the North, the basis for deciding on the above-mentioned issues was the remaining amount of contributions to the budget of the world organization, while for the countries of the South, the basis was the size of the influence exercised in the General Assembly through "the supremacy of the majority". Considering that certain reform moves were made, the absence of agreement on the reorganization of the administrative apparatus of the world organization did not lead to a permanent suspension of that process, but eventually to a slowing down of its progress. In relation to the

[29] In implementing reforms of the administrative apparatus, the Secretary-General is assisted by the Change Management Team, headed by the Deputy and Assistant Secretary-General of the UN. These persons coordinate the reform processes through the structure of the Secretariat (departments and offices, as well as other administrative bodies), and regularly report on the achieved results to the Secretary-General.

issue of reaffirming the role of the Secretary-General, that issue remained extremely delicate. Its function is subjected to continuous pressure from various countries and interest groups. Considering the very flexible interpretations of the powers of the Secretary-General established in the Charter, as well as the generally defined duties entrusted to him by the Resolutions of the main organs of the United Nations, it is clear that the Secretary-General with all his infrastructure will remain on very uncertain ground with limited possibilities of realization in the future of all the set goals and tasks of the world organization.

CONCLUSIONS

In the research flowchart of the United Nations, the author first gave an account of its origin as a universal international organization, then presented a brief analysis of the content of the Charter as its constitutive legal act that establishes the rights and obligations of the member states, which establishes its main bodies and prescribes the procedures for their action. The work includes a detailed examination of the institutional structure and powers of the world organization, i.e., its organization composed of the main bodies — the General Assembly, the Security Council, the Economic and Social Council, the Trusteeship Council, the International Court of Justice, the Secretary-General, and the Secretariat. Along with this analysis, the paper presents more detailed explanations about the functioning of the main organs of the United Nations, their mutual relations, connections with specialized agencies and other international organizations and bodies in the world organization system. From the overall analysis of the organizational and functional properties of the world organization, the conclusion emerges that the United Nations gradually built its polymorphic power structure in parallel with the increase in the number of its members, and the expansion of the functions of the main bodies, whose diverse competences were adapted to the requirements of the time. In order to solve the enormous burden acquired during the period of the Cold War conflict, after its end, the United Nations tried to reaffirm the concept of preserving international peace and security, as well as to improve the existing international legal order through the application of the Charter, which remained the only binding legal factor in the regulation of all important international problems. Increased demands for changing the power structure of the world organization required additional efforts in terms of the democratization of international relations. In the international community, the determination to reform and complete the institutional mechanisms of the world

organization, which has its basis in international law, has strengthened. Today, international law is "more or less" shaped by a comprehensive system of norms that relies on the Charter or is derived from the Charter. Since any reform of the world organization entails changes to the Charter, these changes can be of fundamental importance for the future of the world, because the revision of the Charter would also change the legal basis of the existing world order.

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