ARTICLE 60

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TEXT OF ARTICLE 60

Responsibility for the discharge of the functions of the Organization set forth in this Chapter shall be vested in the General Assembly and, under the authority of the General Assembly, in the Economic and Social Council, which shall have for this purpose the powers set forth in Chapter X.

INTRODUCTORY NOTE

1. The study on Article 60 treats certain general aspects of the functioning and the inter-relationship of the General Assembly and the Economic and Social Council bearing on their responsibilities under this Article. The specific functions exercised by the General Assembly and the Economic and Social Council in the discharge of their responsibilities under Article 60 are dealt with in this Repertory under the Articles which set forth those specific functions or powers of the two organs.

2. The General Survey includes a brief description of the references made to Article 60 and the action taken by the General Assembly and the Economic and Social Council under that Article. The Analytical Summary of Practice deals with the question of reconsideration of decisions by the Economic and Social Council at the request of the General Assembly and by the General Assembly at the request of the Economic and Social Council. It further discusses the question of how the General Assembly has exercised the authority vested in it under Article 60 with respect to the activities of the Economic and Social Council. Finally, it takes up the question of the General Assembly addressing directly a subsidiary organ of the Council.

I. GENERAL SURVEY

3. Article 60 was explicitly referred to in the following resolutions of the General Assembly and the Economic and Social Council:
   (a) General Assembly resolution 59 (I), by which the Economic and Social Council was instructed "to undertake, pursuant to Article 60 and Article 62, paragraph 4, of the Charter," the convocation of a conference on freedom of information;
   (b) General Assembly resolution 418 (V), which approved a text dealing with advisory welfare services, as revised 1/ by the Economic and Social Council at the request of the Assembly. The first paragraph of the preamble of the revised text states that "by Articles 55 and 60 of the Charter of the United Nations the Economic and Social Council, under the authority of the General Assembly, is charged with the responsibility for promoting higher standards of living and conditions of social progress and development"; 2/
   (c) General Assembly resolution 534 (VI), which declared that the General Assembly was "Mindful of its co-ordinating responsibilities set forth in Articles 58, 60 and 63 of the Charter", and requested the Secretary-General to prepare a programme of conferences for United Nations organs and specialized agencies making most effective utilization of the available facilities at Geneva and Headquarters.

4. While Article 60 has been mentioned on several occasions both in the decisions and the discussions of the organs of the United Nations, a decision which would elaborate

1/ ESC resolution 312 (XI).
2/ The Economic and Social Council quoted these words in its resolution 362 B (XII) entitled "Concentration of Effort and Resources".
its meaning has never been adopted. Although the more general question of the activities of the General Assembly and the Economic and Social Council in the field covered by Chapter IX is dealt with in this Repertory under Article 55, it may be appropriate to comment here briefly on the procedural arrangements made by the General Assembly and the Economic and Social Council in connexion with their responsibilities under Article 60.

5. The General Assembly deals with economic, social, humanitarian and cultural questions through two of its Main Committees and at plenary meetings. It exercises its authority over the Economic and Social Council in a general way by means of a periodic examination of the reports of the Council on its work, and by means of requests and decisions, either arising from consideration of the reports of the Council or taken upon its own initiative. The Council also depends on the General Assembly for the funds required to carry out certain actions initiated by the Council or undertaken at the request of the General Assembly. Furthermore, the rules of procedure of the Economic and Social Council contain procedural arrangements which facilitate the exercise by the General Assembly of its authority. The General Assembly may, for example, request the Council to hold a special session. It may also propose items for inclusion in the provisional agenda of the Council. In some cases, for the most part in connexion with financial questions, resolutions of the General Assembly have led the Council to suspend or amend its rules of procedure.

II. ANALYTICAL SUMMARY OF PRACTICE

6. Article 60 has never directly given rise to a constitutional conflict in the practice of the General Assembly and the Economic and Social Council. The questions dealt with below are included here because they concern the relationship between the General Assembly and the Council, and more specifically the meaning of the phrase "under the authority of the General Assembly".

A. The question of the relationship between the General Assembly and the Economic and Social Council

7. On some occasions Article 60 has been invoked in the debates in connexion with various questions. Thus, on one occasion, doubts were expressed as to whether the Charter authorized the United Nations to delegate its powers to a specialized agency, and whether the Council "was authorized, on behalf of the United Nations, to delegate...".

On many occasions the General Assembly has expressed its satisfaction with actions taken by the Council. In resolution 622 (VII), however, the Assembly expressed its attitude towards the failure of the Council to submit a report on the establishment of a special fund for financing economic development at a time designated by it in these terms: "Notes also that, for reasons beyond its control, the Economic and Social Council was unable to submit to the General Assembly at its seventh session a detailed plan...".

See in this Repertory under Article 17 (1) concerning the scope and the extent of the powers of the General Assembly to approve expenditures.


Ibid., rule 4.

Ibid., rules 10 and 13. Provision was made in rule 6 of the rules of procedure of the functional commissions for the proposal of items by the General Assembly for inclusion in the provisional agenda of the functional commissions of the Council (see United Nations publication, Sales No.: 1953.I.22).

See in this Repertory under Article 72 (1), particularly the study on the decisions of the General Assembly affecting the procedure of the Council.
powers it had received from the General Assembly without consulting the latter body. ß/ It was stated that "the Council held its powers from the General Assembly and could not delegate them to a specialized agency". Article 60 was very precise on this subject. During the consideration by the Economic and Social Council of the item entitled "Damage caused to the Federal People's Republic of Yugoslavia by the withholding of its gold reserves by the United States of America", the view was expressed that "Under Articles 55, 56, 60 and 62 of the Charter, the Council had the right to examine cases of breaches of the provisions of the Charter". ß/ In another instance it was pointed out that Article 60 raised the question of "the need for reconciling the authority of the General Assembly with the powers of the Council", since the Article stated that the Council shall have the powers set forth in Chapter X. In this connexion it was also mentioned that the Economic and Social Council had been established under Article 7 (1) as one of the principal organs of the United Nations on an equal footing with the General Assembly, and that Article 7 (2), which referred to subsidiary organs, confirmed the fact that the Council was not a subsidiary organ of the General Assembly. ß/ 8. As far as the Council is concerned, the term "under the authority of the General Assembly" means, in practice, a continuing authority of a general nature. ß/ Under this general authority and by virtue of the powers conferred upon it by various provisions in Chapter X, the Economic and Social Council has constantly initiated action within the field of its competence without specific authorization from the General Assembly. ß/ 

B. The question of the reconsideration of decisions by the Economic and Social Council at the request of the General Assembly

9. In a number of instances the General Assembly has requested the Council to reconsider its decisions. In three of the four cases described below, the Council fully accepted the recommendations of the General Assembly. In one case it met the request of the General Assembly with some modifications.

10. At its eleventh session the Council, following a recommendation of the Commission on Human Rights, requested ß/ the Secretary-General to invite Governments to furnish information relating to the prevention of discrimination and the protection of minorities and to distribute the information received to the members of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities prior to the fourth session of the Sub-Commission. In adopting ß/ the Calendar of Conferences for 1951, the Council did not provide for a session of the Sub-Commission during that year. The General Assembly, however, considering the importance of the studies entrusted to this Sub-Commission, invited ß/ the Council to reconsider its decision with a view to providing for a session of the Sub-Commission in its calendar of conferences for 1951. Subsequently the Council decided to convene a session of the Sub-Commission in October 1951.

9/ For texts of relevant statements, see E S C (IX), 317th mtg., USSR, pp. 489-492; 318th mtg., Lebanon, pp. 498 and 499.
10/ E S C (VI), 169th mtg., p. 420. See also in this Repertory under Article 62 (1).
12/ By resolution 5 (1), the General Assembly adopted the conclusions of its Second Committee which stated that "the Economic and Social Council should be allowed the widest possible freedom to carry out its work" (G A (I/1), Plen., 19th mtg., pp. 297-299, A/16).
13/ See in this Repertory under the Articles in Chapter X, particularly Article 62.
14/ E S C resolution 303 F (XI).
15/ E S C resolution 336 (XI).
16/ G A resolution 419 (V).
11. At its thirteenth session the Council discussed the future of the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities and decided to discontinue the Sub-Commission after its final session in October 1951, until 31 December 1954, its work being taken over by the Council, the Commission on Human Rights, the Secretary-General or ad hoc bodies, as appropriate. The General Assembly, at its sixth session, considered this decision of the Council, and noted that the Assembly itself, the Council and the Commission on Human Rights had asked the Sub-Commission to make a thorough study of the problem of minorities; accordingly, the Assembly invited the Council to authorize the Sub-Commission to continue its work so that it might fulfill its mission, and especially to convene it in 1952 and to take any practical steps that might be necessary for the continuance, within the framework of the United Nations, of the work on the prevention of discrimination and the protection of minorities. Acting upon this request of the General Assembly, the Council decided to convene a session of the Sub-Commission in 1952 and requested it to continue its work in accordance with the General Assembly resolution. It also requested the Sub-Commission to prepare a report on future work in the field of the prevention of discrimination and the protection of minorities, and to submit this report to the Commission on Human Rights which was invited to consider it and to report to the Council. Finally, in response to a proposal of the Commission on Human Rights, the Council decided that the Sub-Commission should meet at least once a year and that each session should last three weeks. At the same time the Council adopted several decisions containing recommendations on the prevention of discrimination and protection of minorities, and also made arrangements for the work programme of the Sub-Commission.

12. In establishing the Calendar of Conferences for 1951, the Council did not provide for a session of the Sub-Commission on Freedom of Information. The General Assembly, considering it desirable that the Sub-Commission should continue the study of the agenda items referred to it by the Economic and Social Council for consideration, invited the Council to reconsider its decision. The Council considered the matter on several occasions in the light of the request of the General Assembly, and decided to continue the Sub-Commission in order to enable it, at a final session, to complete its work on the draft International Code of Ethics for journalists. The Council also arranged for a session of the Sub-Commission to be held early in 1952 and made arrangements for the continuation of the work on freedom of information after the discontinuation of the Sub-Commission.

17/ E S C (XIII), 555th mtg., pp. 705-711; see also E S C (XIII), Annexes, a.i. 36, p. 2, E/1995.
18/ E S C resolution 414 (XIII), section B.I.
19/ G A resolution 532 B (VI).
20/ Under Article 68 of the Charter the Council is empowered to "set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions".
21/ E S C resolution 443 (XIV).
22/ E S C (XVI), Suppl. No. 8, annex IV, p. 70.
23/ E S C resolution 508 A (XVI).
24/ E S C resolution 508 B and H (XVI).
25/ E S C resolution 336 (XII).
26/ G A resolution 420 (V).
27/ E S C (XI resumed), 436th mtg., pp. 466 and 467; E S C (XII), 466th mtg., p. 243; E S C (XIII), 555th mtg., pp. 705-710.
28/ E S C resolution 414 (XIII), section B.I.
29/ G A resolution 532 A (VI).
13. At its sixth session the General Assembly requested the Economic and Social Council to reconsider its decision on convening the Commission on the Status of Women once every two years, with a view "to continuing to convene the Commission on the Status of Women for one session every year". The Council revised its earlier decision to meet the request of the General Assembly. 31/

C. The question of the General Assembly exercising its authority at the request of the Economic and Social Council

14. By resolution 303 I (XI), the Council requested the General Assembly to make policy decisions concerning various questions relating to the drafting of the Covenant on Human Rights. The General Assembly formulated its views on the points indicated by the Council and requested the Commission on Human Rights, through the Council, to take those views into consideration in revising the draft Covenant, together with the views previously expressed in the General Assembly and the Council. On one question the General Assembly set forth the text of an article which it requested the Commission to include in the Covenant. On other questions the General Assembly gave specific instructions to the Commission, through the Council, and to the Council itself; the Council was requested, in particular, when studying some specific questions relating to the Covenant, to take into consideration the proposals submitted to the General Assembly by certain delegations. The General Assembly also called upon the Council to make certain studies and to prepare recommendations for the General Assembly. 35/ The Council transmitted the General Assembly resolutions to the Commission for appropriate action. 36/

15. During its examination of the draft Covenant on Human Rights, as revised by the Commission on Human Rights in pursuance of General Assembly resolution 421 (V), the Council, "Conscious of the difficulties which may flow from embodying in one covenant two different kinds of rights and obligations", invited the General Assembly "to reconsider its decision in resolution 421 E (V), to include in one covenant articles on economic, social and cultural rights, together with articles on civic and political rights". 37/

16. The General Assembly reconsidered this matter at its sixth session and requested the Council to ask the Commission on Human Rights to draft two covenants -- one on civil and political rights, and another on economic, social and cultural rights -- to be submitted simultaneously for consideration by the General Assembly at its seventh session. It also called upon the Council to request the Commission to take into consideration, when revising the draft articles on economic, social and cultural rights, the views expressed during the discussion of the draft Covenant. The Council also

30/ E S C resolution 414 (XIII), section B.I.
31/ E S C resolution 445 I (XIV).
32/ G A resolution 421 (V), sections A and B.
33/ G A resolution 422 (V).
34/ G A resolution 421 (V), sections D, E and F.
35/ E S C resolution 349 (XII).
36/ When the Council examined the recommendations of the General Assembly (E S C (XII), 439th-442nd mtgs., pp. 15-41) some members thought that those recommendations did not go far enough and that the Council should not confine its action merely to transmitting Assembly resolutions to the Commission on Human Rights, but should consider the draft Covenant in substance.
37/ E S C resolution 384 (XIII), section C.
38/ G A resolution 543 (VI).
39/ G A resolution 544 (VI).
also requested the Commission to take into consideration the discussion of the
General Assembly concerning certain documents dealing with measures for implementation
of the covenants, and to submit its recommendations to the General Assembly. The
Council at a special session transmitted all the recommendations of the General
Assembly to the Commission.

D. The question of the General Assembly addressing directly a
subsidiary organ of the Economic and Social Council

17. On some occasions the General Assembly has addressed the subsidiary bodies of the
Economic and Social Council both through the Council and directly. Thus, by
resolution 545 (VI), the General Assembly decided to include in the international
covention or covenants on human rights an article on the right of self-determination of
peoples. It specified some of the terms of the article, and requested the Commission
on Human Rights to submit to the General Assembly at its seventh session recommendations
"concerning international respect for the self-determination of peoples". At the same
session, the General Assembly further requested the Council to instruct the
Commission on Human Rights to give priority to the question of the right of peoples to
self-determination. The Commission, in response to the request of the General Assembly,
presented to the General Assembly a draft article and two draft resolutions on the subject, and the
Council transmitted the draft resolutions, without comment, to the General Assembly. During the discussion of these draft resolutions, several Council members stated that it
was not appropriate for the Council to amend or in any way to replace them. It was
also asserted that, as the Council had not been invited to comment on this question,
any views on the substance should be advanced only in the General Assembly; the Council
was to serve merely as a channel of transmission, and any discussion of substance was
out of order. The President of the Council stated that "a careful search had not uncovered any precedents for paragraph 2 of General Assembly resolution 545 (VI),
which requested a subsidiary organ of the Council to report back directly to the
Assembly."

18. The General Assembly considered the matter at its seventh session and made a
request to the Commission on Human Rights through the Economic and Social Council. It
requested the Council to ask the Commission "to continue preparing recommendations
concerning international respect for the right of peoples to self-determination", and
requested the Commission on Human Rights to submit "through the Economic and Social
Council" its recommendations to the General Assembly.

40/ G A resolution 547 (VI).
41/ E S C resolution 415 (S-I).
42/ When, at a later date, the Council considered the report of the Commission, it had
before it (E S C (XIV), 665th mtg., pp. 720-725 and 666th mtg., pp. 728 and 729)
a draft resolution (E S C (XIV), Annexes, a.i. 12, p. 1, E/L.457) proposing that it
invite the General Assembly to reconsider resolution 543 (VI) with a view to
instructing the Commission to prepare a single draft covenant at its next session.
This proposal was not adopted.
43/ G A resolution 549 (VI).
44/ E S C (XIV), Suppl. No. 4, p. 44, annex I A.
45/ Ibid., p. 64, annex V, A and B.
46/ E S C resolution 440 B (XIV).
47/ E S C (XV), 666th-668th mtgs., pp. 728-747.
48/ E S C (XV), 668th mtg., para. 49.
49/ G A resolution 657 C (VII).

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19. In introducing to the Council, 50/ at its eighteenth session, two draft resolutions 51/ prepared by the Commission on Human Rights in accordance with the request of the General Assembly, the Chairman of that Commission stated that he interpreted General Assembly resolution 637 C (VII) as meaning that the Council could not amend the recommendations, but must transmit them to the General Assembly as they stood, together with its views and comments. In support of this view, some members of the Council argued that the Council should confine itself to transmitting the recommendations of the Commission to the General Assembly, 52/ and that precedents for such action had been established in connexion with General Assembly resolution 545 (VI). 53/ While the competence of the Council to express its views on the recommendations was recognized by some members, it was held that the Council could not, however, refuse to transmit the resolutions of the Commission to the General Assembly. 54/

20. On the other hand, it was contended that the Council was competent to decide whether or not to transmit the recommendations to the General Assembly. 55/ It was also argued that the General Assembly was not entitled, under the Charter, to establish a direct relationship between itself and a subsidiary organ of the Council. The Charter clearly defined the hierarchy of United Nations bodies. Moreover, the Commission on Human Rights had been seized of the request of the General Assembly only by a forwarding resolution of the Council. 56/ Under Article 66 of the Charter, the Commission on Human Rights clearly fell under the authority of the Council, and not of the General Assembly. The Commission on Human Rights and other commissions set up by the Council under Article 68 existed to help the Council in the performance of its functions, and the latter was therefore fully entitled to alter or refer back any draft resolutions which the commissions might submit with a view to their consideration by the General Assembly. 57/ It was the responsibility of the Council to ensure that what it transmitted to the General Assembly reflected the corporate wisdom of the Council as a whole, and corresponded to what the Assembly had requested. 58/

21. At the conclusion of its debates, the Council decided to transmit 59/ the draft resolutions to the Commission on Human Rights for reconsideration in the light of the discussions of the Council.

22. It should be mentioned that, in resolution 837 (IX), the General Assembly noted these recommendations of the Commission, referred to in the Report of the Economic and Social Council to the General Assembly, as well as the decision of the Council to refer back the draft resolutions to the Commission. It then directly requested the Commission to complete its recommendations in time for the next regular session of the Assembly, and requested the Economic and Social Council "to transmit these recommendations to the General Assembly".

50/ E/AC.7/SR.286.
51/ E/AC.7/SR.289, pp. 11-18; E/AC.7/SR.291, pp. 4 and 5.
52/ See para. 18 above.
56/ E/AC.7/SR.289, p. 17.
59/ E/AC.7/SR.290, p. 14; E/AC.7/ESCR.45 (XVIII).
Chapter X

THE ECONOMIC AND SOCIAL COUNCIL