

## ARTICLE 61

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## TEXT OF ARTICLE 61

(Prior to 31 August 1965)

1. The Economic and Social Council shall consist of eighteen Members of the United Nations elected by the General Assembly.

2. Subject to the provisions of paragraph 3, six members of the Economic and Social Council shall be elected each year for a term of three years. A retiring member shall be eligible for immediate re-election.

3. At the first election, eighteen members of the Economic and Social Council shall be chosen. The term of office of six members so chosen shall expire at the end of one year, and of six other members at the end of two years, in accordance with arrangements made by the General Assembly.

4. Each member of the Economic and Social Council shall have one representative.

(From 31 August 1965)

1. The Economic and Social Council shall consist of twenty-seven Members of the United Nations elected by the General Assembly.

2. Subject to the provisions of paragraph 3, nine members of the Economic and Social Council shall be elected each year for a term of three years. A retiring member shall be eligible for immediate re-election.

3. At the first election after the increase in the membership of the Economic and Social Council from eighteen to twenty-seven members, in addition to the members elected in place of the six members whose term of office expires at the end of that year, nine additional members shall be elected. Of these nine additional members, the term of office of three members so elected shall expire at the end of one year, and of three other members at the end of two years, in accordance with arrangements made by the General Assembly.

4. Each member of the Economic and Social Council shall have one representative.

## INTRODUCTORY NOTE

1. This study supplements previous studies of Article 61 in the *Repertory* and its *Supplements Nos. 1* and *2*; the former headings have therefore been maintained and in addition a new section II-D included on the question of whether the Council can meet with a vacancy in its membership.

## I. GENERAL SURVEY

### A. Article 61 (1–3)

2. At its eighteenth session the General Assembly amended Article 61 of the Charter,<sup>1</sup> increasing the membership of the Economic and Social Council and establishing a revised procedure for the first election after the increase in the membership of the Council, and submitted this amended Article for ratification by the States Members of the United Nations.<sup>2</sup>

3. At its twentieth session the General Assembly, noting that the amendments to Article 61 of the Charter adopted by the General Assembly had come

into force on 31 August 1963,<sup>3</sup> decided<sup>4</sup> with effect from 1 January 1966 to amend rule 146 of its rules of procedure by replacing the word “six” with the word “nine”.

4. The procedure followed by the General Assembly at its fourteenth, fifteenth, sixteenth, seventeenth and eighteenth sessions for electing one-third of the members of the Economic and Social Council did not vary from that described in the *Repertory*,<sup>5</sup> since during the period under review no changes were made in rules 85, 94, 96, or 147 of the rules of procedure of the General Assembly.

<sup>1</sup> See this *Supplement* under Article 108.

<sup>2</sup> G A resolution 1991 B (XVIII).

<sup>3</sup> G A (XX), Annexes, a. i. 15 and 16, A/6019.

<sup>4</sup> G A resolution 2046 C (XX).

<sup>5</sup> See *Repertory*, vol. III, under Article 61, paras. 7 and 8.

During the nineteenth session the procedure of election by secret ballot was not followed.<sup>6</sup> At the 1327th meeting of the nineteenth session the President invited heads of delegations to a private consultation in view of the fact that there were two candidates for the seat that was being vacated by Senegal. At its 1328th meeting, held on 10 February 1965, the General Assembly elected Canada, Pakistan, Peru, Romania and the United States, and the President once more announced that there would be private consultations regarding the sixth vacancy, and appealed to all Members to assist in arriving at a conclusive result. At the 1330th meeting, on 18 February 1965, the President announced that Gabon was approved, without objection, as a member of the Economic and Social Council to serve from 1 January 1965. At the twentieth session, the General Assembly, in accordance with the procedure defined in resolution 1991 B (XVIII),<sup>7</sup> elected nine additional members to fill the seats created, making a total of fifteen members elected at that session.<sup>8</sup>

5. The following Member States were elected members of the Council during the period under review:

1959: Brazil, Denmark, Japan, Poland, USSR, United Kingdom.

1960: El Salvador, Ethiopia, France, Italy,<sup>9</sup> Jordan, Uruguay.

1961: Australia, Colombia, India, Senegal, United States, Yugoslavia.

1962: Argentina, Austria, Czechoslovakia, Japan, USSR, United Kingdom.

1963: Algeria, Chile, Ecuador, France, Iraq, Luxembourg.

1964: Canada, Gabon, Pakistan, Peru, Romania, United States.

1965: Cameroon, Czechoslovakia, Dahomey, Greece, India, Iran, Morocco, Panama, Philippines, Sierra Leone, Sweden, USSR, United Kingdom, United Republic of Tanzania, Venezuela.

6. The following lists show, for the period ending 31 August 1966, the frequency of application of the provision of Article 61 (2) whereby "a retiring member shall be eligible for immediate re-election":

*Member States regularly re-elected to Council since its inception:*

France, USSR, United Kingdom, United States.

*Member States which have been re-elected at the expiry of their terms of office:*

Argentina	-----	1952—1954, 1955—1957
Belgium	-----	1949—1951, 1952—1954
Chile	-----	1946—1948, 1949—1951
China	-----	1946—1948, 1949—1951, 1952—1954, 1955—1957, 1958—1960
Czechoslovakia	-----	1963—1965, 1966—1968
Egypt	-----	1952—1954, 1955—1957

<sup>6</sup> See also this *Supplement*, under Article 21, para. 38.

<sup>7</sup> See para. 10 below.

<sup>8</sup> G A (XX), 1396th mtg., paras. 1—13 and 1403rd mtg., paras. 1—11.

<sup>9</sup> Elected at second part of fifteenth session of the General Assembly, Plen., 987th mtg., held on 18 April 1961.

Japan	-----	1960—1962, 1963—1965
Lebanon	-----	1946 (elected for one year) 1947—1949
Netherlands	-----	1955—1957, 1958—1960
Pakistan	-----	1954—1956, 1957—1959
Peru	-----	1946—1948, 1949—1951
Poland	-----	1948—1950, 1951—1953, 1957—1959, 1960—1962
Sierra Leone	-----	1966 (elected for one year) <sup>10</sup> 1967—1969
United Republic of Tanzania	-----	1966 (elected for one year) <sup>10</sup> 1967—1969
Yugoslavia	-----	1953—1955, 1956—1958

7. Of the sixty-two Member States which have served on the Council, apart from four which have served continuously,<sup>11</sup> three have served five terms of office;<sup>12</sup> seven have served four terms;<sup>13</sup> eight have served three terms;<sup>14</sup> thirteen have served two terms;<sup>15</sup> and twenty-seven have served for one term.<sup>16</sup>

8. At the fourteenth session of the General Assembly one Member State<sup>17</sup> which had not previously served on the Council was elected to membership; at the fifteenth session, four Member States;<sup>18</sup> at the sixteenth session, one;<sup>19</sup> at the seventeenth session, one;<sup>20</sup> at the eighteenth session, three;<sup>21</sup> at the nineteenth session, two;<sup>22</sup> at the twentieth session six such Member States were elected.<sup>23</sup>

#### B. Article 61 (4)

9. No change was made in the relevant rules of procedure on representation and credentials during the period under review, and the practice of the Economic and Social Council also remained unchanged.<sup>24</sup>

<sup>10</sup> See para. 11 below.

<sup>11</sup> France, USSR, United Kingdom and United States.

<sup>12</sup> China (which was regularly re-elected to the Council from 1946—1960), Czechoslovakia and India.

<sup>13</sup> Belgium (served only one year of first term), Canada, Chile, Pakistan, Poland, Venezuela and Yugoslavia.

<sup>14</sup> Argentina, Australia, Brazil, Greece, Mexico, the Netherlands (elected 1947—1948 for 2 years only, to fill Belgium's unexpired term), Peru and Turkey.

<sup>15</sup> Colombia, Cuba, Denmark, Ecuador, Iran, Japan, Lebanon, New Zealand, Norway, the Philippines, Sweden, United Arab Republic (as Egypt) and Uruguay.

<sup>16</sup> Afghanistan, Algeria, Austria, Bulgaria, Byelorussian SSR, Cameroon, Costa Rica, Dahomey, Dominican Republic, El Salvador, Ethiopia, Finland, Gabon, Indonesia, Iraq, Italy, Jordan, Luxembourg, Morocco, Panama, Romania, Senegal, Sierra Leone, Spain, Sudan, Ukrainian SSR, and the United Republic of Tanzania.

<sup>17</sup> Japan.

<sup>18</sup> El Salvador, Ethiopia, Italy and Jordan.

<sup>19</sup> Senegal.

<sup>20</sup> Austria.

<sup>21</sup> Algeria, Iraq, Luxembourg.

<sup>22</sup> Gabon and Romania.

<sup>23</sup> Cameroon, Dahomey, Morocco, Panama, Sierra Leone, and the United Republic of Tanzania.

<sup>24</sup> See sections II B and C below. For the Rules of procedure of the Economic and Social Council, see E/3063/Rev. 1, United Nations Publication, Sales No.: 67. I. 32.

## II. ANALYTICAL SUMMARY OF PRACTICE

### A. Question of the date of expiry of the term of office of members of the Council

10. Under Article 61 of the Charter, as amended in accordance with operative paragraph 3 of resolution 1991 B (XVIII) of the General Assembly, the number of members of the Economic and Social Council to be elected for a term of three years was increased from six to nine and an amended procedure for the first election was established as follows:

“At the first election after the increase in the membership of the Economic and Social Council from eighteen to twenty-seven members, in addition to the members elected in place of the six members whose term of office expires at the end of that year, nine additional members shall be elected. Of these nine additional members, the term of office of three members so elected shall expire at the end of one year, and of three other members at the end of two years, in accordance with arrangements made by the General Assembly.”

11. At its 1396th and 1403rd plenary meetings the General Assembly elected nine members to fill the additional seats thus created and decided, by drawing lots, which three members<sup>25</sup> should serve for one year, and which three other members<sup>26</sup> should serve for two years, the three remaining members<sup>27</sup> serving for three years.

### B. Question of associating with the Council's activities the largest number of Members compatible with its efficacy

12. The question of amending the United Nations Charter, in accordance with the procedure laid down in Article 108 to increase the membership of the Economic and Social Council was included in the agenda of the fourteenth, fifteenth and eighteenth sessions of the General Assembly.<sup>28</sup>

13. At its fourteenth session the General Assembly adopted a draft resolution by 48 votes to 10 with 22 abstentions<sup>29</sup> by which it decided to place the question of an increase in the membership of the Security Council and of the Economic and Social Council on the provisional agenda of its fifteenth session.

14. At its fifteenth session the General Assembly allocated the question to its Special Political Committee. During the Committee's discussion of the item most of the representatives expressed the opinion that in view of the considerable increase in the membership of the United Nations during recent years, there should be an increase in the membership of the Security Council and of the Economic and

Social Council, thus making it possible to improve the present distribution of seats. They could not, however, agree on the means to achieve this end. They rejected two draft resolutions on the subject and made no recommendations to the General Assembly.<sup>30</sup> At its 960th plenary meeting on 20 December 1960, the General Assembly took note of the report of the Special Political Committee<sup>31</sup> on this item. At the same meeting the General Assembly decided to keep the item on the agenda of its fifteenth session for possible consideration at the resumed part of the session, but it was not discussed again<sup>32</sup> until the eighteenth session.

15. The Economic and Social Council at its thirty-sixth session had adopted two draft resolutions arising from the annual report of the Economic Commission for Africa. In the first one<sup>33</sup> the Council proposed to the General Assembly that all measures be taken to ensure adequate representation of Africa in the Council on the basis of equitable geographical distribution. In the second draft resolution<sup>34</sup> the Council, *inter alia*, urged the General Assembly, in the light of the additional increase in the membership of the United Nations, to take the necessary action at its eighteenth session to bring about an appropriate increase in the membership of the Council in order that it could remain the effective and representative organ envisaged in Chapters IX and X of the Charter. In the course of the discussion leading to the adoption of these draft resolutions,<sup>35</sup> most members of the Council supported the enlargement of the Council and considered that the second draft resolution left it to the General Assembly to find the geographical pattern to remedy the existing imbalance in the membership of the Council. However, one delegation stated that action to enlarge the Council entailed revision of the Charter which could not be undertaken until the People's Republic of China occupied its place as a permanent member of the Security Council; the only equitable solution, therefore, was a redistribution of the existing seats at the expense of the Western powers.

16. The General Assembly included an item on equitable representation in the Security Council and the Economic and Social Council in the agenda of its eighteenth session. The Economic and Social Council in its annual report<sup>36</sup> to the General Assembly had a section on the enlargement of its membership.

17. At this session, the General Assembly adopted a draft resolution<sup>37</sup> by a roll-call vote of 96 to 11 with 5 abstentions by which it decided to adopt, in

<sup>30</sup> For text of relevant statements, see GA (XV) Spec. Pol. Com., 186–199th, 214–219th mtgs.

<sup>31</sup> See also G A (XV), Plen., 960th mtg.; G A (XV), Annexes, a. i. 23, A/4626.

<sup>32</sup> G A (XV) *Supplement No. 16 A*, p. V, footnote 2.

<sup>33</sup> E S C resolution 974 B (XXXVI).

<sup>34</sup> E S C resolution 974 C (XXXVI).

<sup>35</sup> E S C (XXXVI), 1290th mtg.

<sup>36</sup> G A (XVIII) Suppl. No. 3 (A/5503), Chapter XIII, section VI, paras. 620 and 621.

<sup>37</sup> G A resolution 1991 B (XVIII).

<sup>25</sup> Greece, Sierra Leone, United Republic of Tanzania.

<sup>26</sup> Cameroon, Dahomey and India.

<sup>27</sup> Iran, Morocco and Venezuela.

<sup>28</sup> See *Repertory Supplement No. 1*, vol. II, under Article 61, paras. 10–12 and *Supplement No. 2*, vol. III, under Article 61, paras. 8–10.

<sup>29</sup> G A resolution 1404 (XIV).

accordance with Article 108 of the Charter of the United Nations, the following amendment to the Charter:

“Article 61.

“1. The Economic and Social Council shall consist of twenty-seven Members of the United Nations elected by the General Assembly.

“2. Subject to the provisions of paragraph 3, nine members of the Economic and Social Council shall be elected each year for a term of three years. A retiring member shall be eligible for immediate re-election.

“3. At the first election after the increase in the membership of the Economic and Social Council from eighteen to twenty-seven members, in addition to the members elected in place of the six members whose term of office expires at the end of that year, nine additional members shall be elected. Of these nine additional members, the term of office of three members so elected shall expire at the end of one year, and of three other members at the end of two years, in accordance with arrangements made by the General Assembly.

“4. Each member of the Economic and Social Council shall have one representative.”

The General Assembly called upon all Member States to ratify the above-mentioned amendment in accordance with their respective constitutional processes, by 1 September 1965; and further decided that, without prejudice to the present distribution of seats in the Economic and Social Council, the nine additional members should be elected according to the following pattern: (a) seven from African and Asian States; (b) one from Latin American States; (c) one from Western European and other States.

18. This amendment to Article 61 of the Charter came into force on 31 August 1965,<sup>38</sup> having obtained the required number of ratifications in accordance with Article 108 of the Charter.

### C. Question of the representation of a Member State

19. Statements on the question whether a member of the Economic and Social Council was represented by a duly accredited representative in accordance with Article 61 (4) and rule 18 of the rules of procedure of the Council were made in connexion with

<sup>38</sup> G A resolution 2046 C (XX).

the representation of China at the twenty-eighth, twenty-ninth and thirtieth sessions of the Council.<sup>39</sup>

### D. Question of whether the Council can meet with a vacancy in its membership

#### MEETING OF SEVENTEEN MEMBERS OF THE COUNCIL

20. When the Council met for its thirty-first session, on 4 April 1961, it had only seventeen instead of eighteen elected members.<sup>40</sup> The General Assembly having elected only five of the six members which it was called upon to elect annually under Article 61 and having failed to elect the six members, postponed the election of the sixth member to its resumed fifteenth session in April 1961.<sup>41</sup>

21. At the same meeting,<sup>42</sup> one member stated on a point of order that the holding of a Council meeting with a vacancy in its membership was not in accordance with the provisions of the Charter under Article 61 (1), and that any decision taken by the Council so constituted would be in violation of the Charter, thus rendering the decisions of the Council open to challenge. Some representatives shared this opinion but others considered that the Council was legally constituted since the necessary quorum for the conduct of business was present. While several members held that the General Assembly should not be consulted formally on the legality of the Council's membership, others felt that it was not for the Council to decide on its own composition. During the course of the discussion, the view of the Office of Legal Affairs was presented. After discussion, in which there was no opposition to a suggestion for an informal approach by the Council's Acting President to the President of the General Assembly with an appeal to him that the Assembly expedite the election of a member to fill the vacancy, it was decided to adjourn the meeting.

22. On 18 April 1961, at its resumed fifteenth session, the General Assembly<sup>43</sup> elected Italy to fill the vacancy, and the thirty-first session of the Council was held from 19 to 28 April 1961.

<sup>39</sup> E S C (XXVII), 1048th mtg., paras. 33–39; E S C (XXIX), 1094th mtg., paras. 13–17; E S C (XXX), 1117th mtg., para. 15 and 1118th mtg., para. 40. Regarding the representation of China in other United Nations organs, see also this *Supplement* under Article 9.

<sup>40</sup> E S C (XXXI), 1137th mtg.

<sup>41</sup> G A (XV), Plen., 959th mtg.

<sup>42</sup> See footnote 38.

<sup>43</sup> G A (XV), Plen., 987th mtg., para. 70. See also 976th mtg., paras. 165–168. See also this *Supplement*, under Article 21, para. 35.