
ARTICLE 71

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ARTICLE 71

TEXT OF ARTICLE 71

The Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned.

INTRODUCTORY NOTE

1. The structure of the present study for Article 71 remains the same as those of the previous *Supplements*.

I. GENERAL SURVEY

2. It may be recalled that in 1993 the Economic and Social Council, by its resolution 1993/80, had established an open-ended working group consisting of representatives of all interested States under the auspices of the Committee on Non-Governmental Organizations. The working group was mandated with the task of introducing consistency in the rules governing the participation of non-governmental organizations in international conferences, as well as submitting proposals with a view to updating Council resolution 1296 (XLIV), if necessary.¹ Further, the working group was to examine ways and means of improving practical arrangements for the work of the Committee and of strengthening the Non-Governmental Organization Section of the Secretariat. During the period under review, the open-ended working group continued its work. With reference to the Open-ended Working Group on the Review of Arrangements for Consultation with Non-Governmental Organizations, the Council decided:²

(a) To extend the mandate of the Working Group for a period of one year, with a meeting time of not less than two weeks, and requested the Working Group to submit its final report to the Council at its substantive session of 1996;

(b) To increase, on the basis of equitable geographical representation, the current membership of the Committee on Non-Governmental Organizations

and to implement this decision after the completion of the current review;

(c) That, starting in 1996, the Committee should meet annually and should this be necessary for the prompt discharge of its duties, on an ad hoc basis;

(d) To request the Committee to undertake a thorough review of its methods of work with a view to improving and streamlining its procedures;

(e) To prolong the consultative status, on the Roster, of those non-governmental organizations so accredited by the Economic and Social Council in its decision 1993/329 of 30 July 1993, subject to a final resolution of the issue by the Council at its substantive session of 1996, following the outcome of the review of arrangements for consultations with non-governmental organizations currently under way.

3. Following its third session in 1996, the working group decided to transmit to the Council a text reflecting the current status of negotiations on arrangements for consultation with non-governmental organizations, and subsequently the complete results of its work transmitted on an *ad referendum* basis.³ In June, the Chairman of the Committee, in a letter to the President of the Council,⁴ stated that the Committee had considered the report of the working group and expressed its support and encouragement to the Chairman of the working group.

4. In recalling Article 71 of the Charter of the United Nations and resolution 1296 (XLIV), the

¹ See *Repertory, Supplement No. 8*, vol. IV, under Article 71, para. 11.

² E S C decision 1995/304.

³ E/1996/58.

Council, based on the report of the working group,⁵ adopted resolution 1996/31, which approved the update

⁴ E/1996/92.

⁵ E/1996/58.

of the arrangements set out in that resolution with regard to the mandate of the Committee on Non-Governmental Organizations, the principles governing the establishment of consultative relations and the nature of consultative arrangements, and the establishment of consultative relationships.

II. ANALYTICAL SUMMARY OF PRACTICE

A. Committee on Non-Governmental Organizations

5. In the past, the Committee on Non-Governmental Organizations of the Economic and Social Council met biennially. In 1996, the Economic and Social Council approved the update of the arrangements set out in resolution 1296 (XLIV).⁶

6. With regard to membership in the Committee, the resolution specified that members would be elected by the Council on the basis of equitable geographical representation, in accordance with the relevant Council resolutions, decisions and rules of procedure and that the Committee should elect its chairperson and other officers as necessary.⁷

7. The functions and powers of the Committee, as well as the general procedure it would follow in examining and establishing the relationship between non governmental organizations and the Organization, included the following:

(a) The Committee shall be responsible for regular monitoring of the evolving relationship between non-governmental organizations and the United Nations. With a view to fulfilling this responsibility, the Committee shall hold, before each of its sessions and at other times as necessary, consultations with organizations in consultative status to discuss questions of interest to the Committee or to the organizations relating to the relationship between the non-governmental organizations and the United Nations. A report on such consultations shall be transmitted to the Council for appropriate action;

(b) The Committee shall hold its regular session before the substantive session of the Council each year and preferably before the sessions of functional commissions of the Council to consider applications for general consultative status and special consultative status and for listing on the Roster made

by non-governmental organizations and requests for changes in status, and to make recommendations thereon to the Council. Upon approval by the Council, the Committee may hold other meetings as required to fulfil its mandated responsibilities. Organizations shall give due consideration to any comments on technical matters that the Secretary-General may make in receiving such applications for the Committee. The Committee shall consider at each such session applications received by the Secretary-General not later than 1 June of the preceding year on which sufficient data have been distributed to the members of the Committee not later than six weeks before the applications are to be considered. Transitional arrangements, if possible, may be made during the current year only. Reapplication by an organization for status or a request for a change in status shall be considered by the Committee at the earliest at its first session in the second year following the session at which the substance of the previous application or request was considered, unless at the time of such consideration it was decided otherwise;

(c) Organizations in general consultative status and special consultative status shall submit to the Committee through the Secretary-General every fourth year a brief report of their activities, specifically as regards the support they have given to the work of the United Nations. Based on findings of the Committee's examination of the report and other relevant information, the Committee may recommend to the Council any reclassification in status of the organization concerned as it deems appropriate. However, under exceptional circumstances, the Committee may ask for such a report from an individual organization in general consultative status or special consultative status or on the Roster between the regular reporting dates;

(d) The Committee may consult, in connection with sessions of the Council or at such other times as it may decide, with organizations in general consultative

⁶ E S C resolution 1996/31.

⁷ *Ibid.*, para. 60.

status and special consultative status on matters within their competence, other than items in the agenda of the Council, on which the Council or the Committee or the organization requests consultation. The Committee shall report to the Council on such consultations;

(e) The Committee may consult, in connection with any particular session of the Council, with organizations in general consultative status and special consultative status on matters within the competence of the organizations concerning specific items already in the provisional agenda of the Council on which the Council or the Committee or the organization requests consultation, and shall make recommendations as to which organizations, subject to the provisions of paragraph 32 (a) above, should be heard by the Council or the appropriate committee and regarding which subjects should be heard. The Committee shall report to the Council on such consultations;

(f) The Committee shall consider matters concerning non-governmental organizations that may be referred to it by the Council or by its commissions;

(g) The Committee shall consult with the Secretary-General, as appropriate, on matters affecting the consultative arrangements under Article 71 of the Charter of the United Nations, and arising therefrom;

...

62. The Committee, in considering a request from a non-governmental organization in general consultative status that an item be placed in the agenda of the Council, shall take into account, among other things:

(a) The adequacy of the documentation submitted by the organization;

(b) The extent to which it is considered that the item lends itself to early and constructive action by the Council;

(c) The possibility that the item might be more appropriately dealt with elsewhere than in the Council.

63. Any decision by the Council Committee on Non-Governmental Organizations not to grant a request submitted by a non-governmental organization in general consultative status that an item be placed on

the provisional agenda of the Council shall be considered final unless the Council decides otherwise.⁸

Those provisions are substantially similar to those of resolution 1296 (XLIV).

8. The Committee was mandated to make recommendations to the Council as to which organizations in general consultative status should make an oral presentation to the Council and on which items they should be heard.⁹

9. Resolution 1996/31 stated that “the Committee shall hold its regular session before the substantive session of the Council each year”.¹⁰ Subsequently, owing to the increasing workload of the Committee,¹¹ the Council authorized the Committee to hold a maximum of three sessions with a total duration of three weeks in 1998 and in subsequent years.¹² It also authorized the Committee to hold informal meetings prior to each session to clarify matters arising from applications for consultative status.¹³

B. Admission to and review of consultative status

10. Resolution 1996/31 effectively changed the categories of non-governmental organizations in consultative status with the United Nations. Henceforth, category I would be known as general consultative status;¹⁴ category II would be known as

⁸ E S C resolution 1996/31, Part IX, paras. 61-63. For comparison, see E S C resolution 1296 (XLIV), paras. 39-42.

⁹ E S C resolution 1996/31, para. 32 (a).

¹⁰ Ibid., para. 61 (b).

¹¹ E/1997/90 and E/C.2/1997/L.2.

¹² E S C decision 1997/297.

¹³ Ibid.

¹⁴ E S C resolution 1996/31: “Organizations that are concerned with most of the activities of the Council and its subsidiary bodies and can demonstrate to the satisfaction of the Council that they have substantive and sustained contributions to make to the achievement of the objectives of the United Nations in fields set out in paragraph 1 above and are closely involved with the economic and social life of the peoples of the areas they represent and whose membership, which should be considerable, is broadly representative of major segments of society in a large number of countries in different regions of the world shall be known as organizations in general consultative status”, para. 22.

special consultative status;¹⁵ and the Roster would remain unchanged.¹⁶

11. That resolution also consisted of principles, some updating those contained in its resolution 1296 (XLIV) and others reflecting the provisions therein, to be applied in establishing consultative relations with non-governmental organizations:

1. The organization shall be concerned with matters falling within the competence of the Economic and Social Council and its subsidiary bodies.

2. The aims and purposes of the organization shall be in conformity with the spirit, purposes and principles of the Charter of the United Nations.

3. The organization shall undertake to support the work of the United Nations and to promote knowledge of its principles and activities, in accordance with its own aims and purposes and the nature and scope of its competence and activities.

4. Except where expressly stated otherwise, the term “organization” shall refer to non-governmental organizations at the national, subregional, regional or international levels.

5. Consultative relationships may be established with international, regional, subregional and national organizations, in conformity with the Charter and the principles and criteria established under the present resolution. The Committee, in considering applications for consultative status, should ensure, to the extent possible, participation of non-governmental organizations from all regions, and particularly from developing countries, in order to help achieve a just, balanced, effective and genuine involvement of non-governmental organizations from all regions and areas of the world. The Committee shall also pay particular attention to non-governmental organizations that have special expertise or experience upon which the Council may wish to draw.

6. Greater participation of non-governmental organizations from developing countries in

international conferences convened by the United Nations should be encouraged.

7. Greater involvement of non-governmental organizations from countries with economies in transition should be encouraged.

8. Regional, subregional and national organizations, including those affiliated with an international organization already in status, may be admitted provided that they can demonstrate that their programme of work is of direct relevance to the aims and purposes of the United Nations and, in the case of national organizations, after consultation with the Member State concerned. The views expressed by the Member State, if any, shall be communicated to the non-governmental organization concerned, which shall have the opportunity to respond to those views through the Committee on Non-Governmental Organizations.

9. The organization shall be of recognized standing within the particular field of its competence or of a representative character. Where there exist a number of organizations with similar objectives, interests and basic views in a given field, they may, for the purposes of consultation with the Council, form a joint committee or other body authorized to carry on such consultation for the group as a whole.

10. The organization shall have an established headquarters, with an executive officer. It shall have a democratically adopted constitution, a copy of which shall be deposited with the Secretary-General of the United Nations, and which shall provide for the determination of policy by a conference, congress or other representative body and for an executive organ responsible to the policy-making body.

11. The organization shall have authority to speak for its members through its authorized representatives. Evidence of this authority shall be presented, if requested.

12. The organization shall have a representative structure and possess appropriate mechanisms of accountability to its members, who shall exercise effective control over its policies and actions through the exercise of voting rights or other appropriate democratic and transparent decision-making processes. Any such organization that is not established by a governmental entity or intergovernmental agreement shall be considered a non-governmental organization for the purpose of these arrangements, including

¹⁵ “Organizations that have a special competence in and are concerned specifically with only a few of the fields of activity covered by the Council and its subsidiary bodies, and that are known within the fields for which they have or seek consultative status shall be known as organizations in special consultative status.” *Ibid.*, para. 23.

¹⁶ *Ibid.*, para. 24.

organizations that accept members designated by governmental authorities, provided that such membership does not interfere with the free expression of views of the organization.

13. The basic resources of the organization shall be derived in the main part from contributions of the national affiliates or other components or from individual members. Where voluntary contributions have been received, their amounts and donors shall be faithfully revealed to the Council Committee on Non-Governmental Organizations. Where, however, the above criterion is not fulfilled and an organization is financed from other sources, it must explain to the satisfaction of the Committee its reasons for not meeting the requirements laid down in this paragraph. Any financial contribution or other support, direct or indirect, from a Government to the organization shall be openly declared to the Committee through the Secretary-General and fully recorded in the financial and other records of the organization and shall be devoted to purposes in accordance with the aims of the United Nations.

14. In considering the establishment of consultative relations with a non-governmental organization, the Council will take into account whether the field of activity of the organization is wholly or mainly within the field of a specialized agency, and whether or not it could be admitted when it has, or may have, a consultative arrangement with a specialized agency.

15. The granting, suspension and withdrawal of consultative status, as well as the interpretation of norms and decisions relating to this matter, are the prerogative of Member States exercised through the Economic and Social Council and its Committee on Non-Governmental Organizations. A non-governmental organization applying for general or special consultative status or a listing on the Roster shall have the opportunity to respond to any objections being raised in the Committee before the Committee takes its decision.

16. The provisions of the present resolution shall apply to the United Nations regional commissions and their subsidiary bodies *mutatis mutandis*.

17. In recognizing the evolving relationship between the United Nations and non-governmental organizations, the Economic and Social Council, in consultation with the Committee on

Non-Governmental Organizations, will consider reviewing the consultative arrangements as and when necessary to facilitate, in the most effective manner possible, the contributions of non-governmental organizations to the work of the United Nations.¹⁷

The resolution also updated the criteria for the suspension and withdrawal of consultative status:

(a) If an organization, either directly or through its affiliates or representatives acting on its behalf, clearly abuses its status by engaging in a pattern of acts contrary to the purposes and principles of the Charter of the United Nations including unsubstantiated or politically motivated acts against States Members of the United Nations incompatible with those purposes and principles;

(b) If there exists substantiated evidence of influence from proceeds resulting from internationally recognized criminal activities such as the illicit drugs trade, money-laundering or the illegal arms trade;

(c) If, within the preceding three years, an organization did not make any positive or effective contribution to the work of the United Nations and, in particular, of the Council or its commissions or other subsidiary organs.¹⁸

12. During the period under review, the Committee, as a subsidiary body of the Council, continued to convey and review the consultative status of non-governmental organizations. In 1995, the Committee recommended to the Council that consultative status be granted to 91 non-governmental organizations; that 9 organizations be reclassified from category II to I, and that 5 organizations be reclassified from the Roster to category II.¹⁹

13. In May 1996, the Council granted consultative status to 2 non-governmental organizations and at the same time withdrew the consultative status of 12 non-governmental organizations which had failed to

¹⁷ Ibid., paras. 1-17.

¹⁸ Ibid., para. 57. The resolution also sets out an avenue of appeal for the non-governmental organizations facing suspension or withdrawal, providing for written reasons for that decision by the Committee to recommend suspension or withdrawal and an opportunity to present its response for appropriate consideration by the Committee as expeditiously as possible.

¹⁹ E/1995/108.

report on their activities.²⁰ That same year, the Committee recommended to the Council that consultative status be granted to 87 non-governmental organizations and that 70 be listed on the Roster.²¹ In 1997, based on the recommendations of the Committee,²² the Council granted general consultative status to 9 non-governmental organizations, special consultative status to 115 and added 20 to the Roster.²³

14. In 1998, the Committee recommended that the Council approve applications for consultative status of 83 non-governmental organizations and reclassify 3 non-governmental organizations from the Roster to special consultative status.²⁴ The Council granted general consultative status to 3 non-governmental organizations and reclassified 6 non-governmental organizations from special to general consultative status, 2 from the Roster to general consultative status and 3 from the Roster to special consultative status.²⁵ It granted consultative status to 147 non-governmental organizations and Roster status to 7 non-governmental organizations, and reclassified 4 from the Roster to special consultative status,²⁶ and added 8 non-governmental organizations to the Roster.²⁷ In May 1999, the Council granted general consultative status to 2 non-governmental organizations, special consultative status to 80 non-governmental organizations and Roster status to 3; it further reclassified 2 non-governmental organizations from special to general consultative status.²⁸ Based on the recommendations of the Committee,²⁹ the Council granted general consultative status to 4 non-governmental organizations, special consultative status to 95 non-governmental organizations and Roster status to 7 non-governmental organizations,³⁰ and withdrew the consultative status of 1 non-governmental organization.³¹

²⁰ E/1996/17, pp. 3 and 4.

²¹ E/1996/102.

²² E/1997/90.

²³ E S C decision 1997/295.

²⁴ E/1998/72/Add.1.

²⁵ E S C decision 1998/232.

²⁶ E S C decision 1998/235.

²⁷ E S C decision 1998/236.

²⁸ E S C decision 1999/215.

²⁹ E/1999/109.

³⁰ E S C decision 1999/266.

³¹ E S C decision 1999/292.

C. Criteria of eligibility

15. Under Economic and Social Council resolution 1996/31, a non-governmental organization that applies for consultative status should attest that it has been in existence for at least two years from the date of receipt of the application by the Secretariat.³² The non-governmental organization must have an established headquarters, a democratically adopted constitution, authority to speak for its members, a representative structure, appropriate mechanisms of accountability and democratic and transparent decision-making processes. The basic resources of the organization must be derived in the main from contributions of national affiliates or other components or from individual members. In addition, the resolution also specified that the non-governmental organization shall be of recognized standing within the particular field of its competence or of a representative character.³³

****D. International organizations within meaning of Article 71**

****E. National organizations within meaning of Article 71**

****F. Non-governmental organizations within meaning of Article 71**

G. Questions concerning consultation with the Council

16. Resolution 1996/31 generally maintained the overall scope of consultation with the Council in respect of the proposal of items for inclusion on the provisional agenda,³⁴ participation in meetings, submission of written statements and the making of oral presentations. Under 1296 (XLIV), non-governmental organizations could propose to the Committee that it request the Secretary-General to place on the provisional agenda of the Council items of special interest to those organizations. Under resolution 1996/31, non-governmental organizations in general consultative status may propose items for inclusion on the provisional agenda of commissions, subject to certain conditions.³⁵ With regard to participation, while

³² E S C resolution 1996/31, para. 61 (h).

³³ *Ibid.*, para. 9.

³⁴ *Ibid.*, paras. 27 and 28.

³⁵ These were: "(a) An organization that intends to propose such an item shall inform the Secretary-General of the United Nations at least sixty-three days before the

the resolution reflects the provisions of resolution 1296 (XLIV), allowing (a) non-governmental organizations in general consultative status (category I) and special consultative status (category II) to designate authorized representatives to sit as observers at public meetings of the Council and its subsidiary bodies and (b) those on the Roster to have representatives present at such meetings concerned with matters within their field of competence, resolution 1996/31 provides for the possibility of supplementary modalities of participation.³⁶ With regard to written statements, the provisions of resolution 1996/31 are for the most part identical to those of its predecessor decision.³⁷

17. In addition, it may be noted that Council resolution 1996/31 substantially reflects the principles governing the nature of consultative arrangements previously set out in its resolutions 288 B (X)³⁸ and 1296 (XLIV):

18. A clear distinction is drawn in the Charter of the United Nations between participation without vote in the deliberations of the Council and the arrangements for consultation. Under Articles 69 and 70, participation is provided for only in the case of States not members of the Council, and of the specialized agencies. Article 71, applying to non-governmental organizations, provides for suitable arrangements for consultation. This distinction, deliberately made in the Charter, is fundamental and the arrangements for consultation should not be such as to accord to non-governmental organizations the same rights of participation as are accorded to States not members of the Council and to the

specialized agencies brought into relationship with the United Nations.³⁹

Paragraph 20 of that resolution states: “The arrangements should not be such as to overburden the Council or transform it from a body for coordination of policy and action, as contemplated in the Charter, into a general forum for discussion”. It adds the following principles:

Decisions on arrangements for consultation should be guided by the principle that consultative arrangements are to be made, on the one hand, for the purpose of enabling the Council or one of its bodies to secure expert information or advice from organizations having special competence in the subjects for which consultative arrangements are made, and, on the other hand, to enable international, regional, subregional and national organizations that represent important elements of public opinion to express their views. Therefore, the arrangements for consultation made with each organization should relate to the subjects for which that organization has a special competence or in which it has a special interest. The organizations given consultative status should be limited to those whose activities in fields set out in paragraph 1 above qualify them to make a significant contribution to the work of the Council and should, in sum, as far as possible reflect in a balanced way the major viewpoints or interests in these fields in all areas and regions of the world.

****H. Consultation with the Council’s commissions and ad hoc bodies**

****I. Consultation with the Secretariat**

****J. Attendance at public meetings of the General Assembly**

****K. Consultation with subsidiary organs of the General Assembly**

****L. Calling of conferences of non-governmental organizations**

M. Relations with organizations not in consultative status

18. During the period under review, the Economic and Social Council continued in its efforts to ensure a

commencement of the session and before formally proposing an item shall give due consideration to any comments the Secretary-General may make; (b) The proposal shall be formally submitted with the relevant basic documentation not later than forty-nine days before the commencement of the session. The item shall be included in the agenda of the commission if it is adopted by a two-thirds majority of those present and voting”. Ibid., para. 34.

³⁶ Ibid., para. 29.

³⁷ Compare *ibid.*, paras. 30 and 31 and E S C resolution 1296 (XLIV), paras. 29 and 30.

³⁸ See *Repertory*, under Article 71, paras. 17-19, and *Repertory, Supplement No. 4*, vol. II, under Article 71, para. 30.

³⁹ E S C resolution 1996/31, para. 18.

wide representation. Accordingly, the Council enlisted the help of non-governmental organizations not in consultative status to contribute to its work. In 1995, the Committee recommended 80 non-governmental organizations of indigenous people not in consultative status with the Council to participate in the open-ended inter-sessional working group of the Commission on Human Rights to elaborate a draft declaration on the human rights of indigenous people,⁴⁰ which was subsequently approved by the Council.⁴¹ In 1996, 28 non-governmental organizations not in consultative status as recommended by the Committee⁴² were authorized by the Council to take part in the working group.⁴³ In 1998, the Council approved eight

non-governmental organizations not in consultative status to participate in the working group.⁴⁴

In 1996, the Council decided to invite, on an exceptional basis and without prejudice to the outcome of the review of arrangements for consultations with non governmental organizations then under way, non-governmental organizations not in consultative status to participate at the fortieth session of the Commission on the Status of Women and the special session of the Commission for Social Development,⁴⁵ according them rights as non-governmental organizations on the Roster without actually granting them consultative status.

⁴⁰ E/1995/124, p. 2 and E/1995/124/Add.1.

⁴¹ E S C decision 1995/317 A and B.

⁴² E/1996/17, p. 4, and E/1996/102/Add.1 and Corr.1.

⁴³ E S C decisions 1996/218 and 1996/309 A and B.

⁴⁴ E S C decision 1998/233.

⁴⁵ E S C decision 1996/208, para. (a).