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STATUS OF AN ASSOCIATE MEMBER OF AN INTERNATIONAL ORGANIZATION

INTRODUCTION

An international organization is a form of integration of entities that strive to achieve statutory goals. Each of them has the rights and obligations that come with membership. Any entity that is a member of the organization should not perform any activities beyond what it is entitled to, as well as compromise the obligations imposed on it. Having the status of a member in an international organization, regardless of whether it is full membership or not, requires the full commitment of a member state to its functioning, to which it undertakes under an international agreement.

The aim of this study is to present the theoretical and practical aspects of the institution of membership associated with an international organization on the comparative law level. The application of the dogmatic and comparative methods allows for a better understanding of the will of the founders of organizations (founding countries) in terms of membership and comparing them in terms of the normative methods used. The thesis of the study is to show how important it is to acquire membership associated with an international organization and what effects (positive and negative) result from it.

ASSOCIATED MEMBERSHIP
WITH AN INTERNATIONAL ORGANIZATION
– THEORETICAL AND PRACTICAL ASPECT

The most advanced form of partial membership is an association with an international organization (associate membership). The terms of this membership may be specified in the statute, in a resolution of a plenary body, or in an agreement between international organizations and states or a group of states. Associate membership is divided into several types:

1) association of dependent areas with the organization. Such an association was envisaged, *inter alia*, by the FAO, WHO and UNESCO statutes. Associate members are deprived of the right to vote in the decision-making of the main bodies and cannot be elected to the organisation's governing bodies, but do exercise their voting rights in the subsidiary bodies established to regulate and oversee the organisation's cooperation with associated countries. It is an already disappearing type of association, although it played a progressive role as one of the means of preparing dependent countries for independence;

2) undertaking initial and partial cooperation within the organization that you intend to join as an ordinary member. The country is fully economically and politically prepared for future membership. The association is therefore a candidate period for full membership (e.g. GATT);

3) similar to the previous type of association, with the only difference that a country interested in joining international organizations is not able to assume all the obligations of full membership. Such an association relies on partial cooperation and assistance from the organization. The legal basis in this case is an agreement with a given country (e.g. Poland in the EC);

4) active involvement in certain sections of the activities of international organizations without the intention to subsequently apply for admission to ordinary member – the agreement between the countries concerned and the international organization does not provide for the possibility of acquiring full membership in the organization (e.g. Finland in EFTA) [Latoszek and Proczek 2001, 61-62].

The prototype of the regulations on affiliated membership in the subject-organization relationship were the legal regulations of the WHO Constitution, which in Article 8 provided for this kind of linkage for non-sovereign territories. "Territories or groups of territories which are not responsible for

the conduct of their international relations may be admitted as Extraordinary Members by the Health Assembly on the basis of an application made on behalf of such territory or group of territories by a Member or other authority responsible for their international relations. The representatives of Extraordinary Members in the Health Assembly should have technical competence in the field of health and should be selected from indigenous peoples. The nature and scope of the rights and obligations of Extraordinary Members will be determined by the Health Assembly.”¹ Associate members are currently Puerto Rico (May 7, 1992) and Tokelau (May 8, 1991). Their representatives have the right to attend the meetings of the World Health Assembly, but without the voting rights of full members. Associated States may, on an equal footing with other Member States, take an active part (including the right to vote) in the meetings of certain World Health Assembly committees or subcommittees. In addition, they have the right to propose initiatives regarding the current meeting of the Assembly, the right to receive all documents, reports, comments and recordings, and to request the convening of extraordinary sessions of the World Health Assembly [Latoszeka and Proczek 2001, 132].

The above-mentioned form of cooperation between the organization and states was also regulated in the Convention on the International Maritime Organization (IMO) of March 6, 1946.² It was established in Geneva in 1948 as the International Maritime Advisory Organization. It operated until 1982. The London-based International Maritime Organization is an agency unit of the United Nations. It is a forum for cooperation between governments of maritime states in the world [Jurdziński 2017, 23]. Pursuant to Article 8 of the Convention, “any territory or group of territories in which the provisions of the Convention apply may become an associate member of the organization by notification in writing by that member or, as appropriate, by the United Nations to the Secretary-General of the

¹ Constitution of the World Health Organization, the Agreement between the Governments represented at the International Health Conference and the Protocol on the International Public Hygiene Office (22.07.1946), Journal of Laws of 1948 No. 61, item 477; Polish text in: *Zbiór statutów i regulaminów organizacji międzynarodowych. Organizacje wyspecjalizowane ONZ*, vol. 2, part 1, ed. S. Hubert, Wydawnictwo PISM, Warszawa 1966, p. 398.

² Convention on the International Maritime Organization (06.03.1946), Journal of Laws of 1961 No. 14, item. 74.

United Nations.”³ An associate member has the rights and obligations that have been granted by the Convention to each member of the organization, except that he does not have the right to vote nor may be elected as a full member of the Council [Markiewicz 2014, 117]. Hence, the associated state is entitled to participate in the work of the International Maritime Organization, but is deprived of certain rights related to the functioning in the organs of this community [Czarny 2008, 16].

The possibility of acquiring affiliate membership also appears in Article 2 clause 3 of the Convention on the Establishment of the United Nations Educational, Scientific and Cultural Organization of November 16, 1945. According to its provisions, “territories or groups of territories not having their own foreign relations may be admitted as associate members of the General Conference by a majority of two-thirds of the members present and voting, if admission is requested for each of these territories or groups. territories has been reported by a member state or other authorities conducting independent foreign relations. The nature and extent of the rights and obligations of Associate Members will be determined by the General Conference.”⁴ On this basis, 11 associate members participate in the work of UNESCO. They are: Anguilla, Aruba, British Virgin Islands, Cayman Islands, Curaçao, Faroe Islands, Macao, Montserrat, New Caledonia, Sint Maarten and Tokelau [Michałowska 2020, 55].⁵

The General Agreement on Tariffs and Trade did not provide for the institution of an associate member. Its creation is related to the efforts of two socialist countries – Poland and Yugoslavia – to accept this GATT. The concept of this institution was developed in the GATT Secretariat and its practical application concerned these two countries. According to this concept, a country joining GATT as an associate member should agree to: accept the general objectives of the General Agreement; taking into account the interests of the contracting parties and associated countries in the conduct of trade policy; submitting disputed problems of trade with contracting parties or associated countries to GATT conciliation in accor-

³ Ibid.

⁴ Convention relating to the Establishment of the United Nations for Education, Science and Culture (16.11.1945), Journal of Laws No. 46, item. 242; Polish text in: *Zbiór statutów i regulaminów organizacji międzynarodowych. Organizacje wyspecjalizowane ONZ*, p. 55.

⁵ See also: Abramowicz 2012, 235; Szymanek 2006, 105.

dance with a procedure analogous to that provided for in Article XXIII; to make appropriate contributions to the GATT budget. In its rights, an Associate Member is entitled to fully participate in the work of the GATT, with the exception of matters relating to the interpretation of the General Agreement and the exercise of its privileges [Domiter and Rudnicka 2011, 194]. In January 1967, a working group was established which developed a common position containing the project of Poland's accession to the GATT approved by the GATT Council and 2/3 of the members of the Agreement. On October 18, 1967, Poland became a full member of the GATT [Skrzypczyńska 2012, 84].

Diversifying the status of participants in an international organization with incomplete rights also took place in the Council for Mutual Economic Assistance. This organization concluded association agreements with countries with a centrally planned economy, granting them the right to participate in the organizational decision-making process and agreements on economic cooperation with countries with a market economy that do not grant this authority [Menkes and Wasilkowski 2004, 307]. The countries that became associate members were Yugoslavia in 1965, Finland in 1973, Iraq and Mexico in 1975, Ethiopia, Yemen and Angola in 1976, and Afghanistan in 1986 [Kaliński 2013, 147].

The acquisition of the status of an associate member is also provided for in Article 5 of the Statute of the Council of Europe. According to it, "in special circumstances, a European country deemed capable and willing to fulfill the conditions set out in the provisions of Article 3 may be invited by the Committee of Ministers to associate membership of the Council of Europe. Any country so invited will become an associate member by depositing, on its behalf, the Secretary-General of a document certifying acceptance of this statute as it stands. An associate member may only be represented in the Advisory Assembly."⁶ Obtaining the status of an associate member in the Council of Europe in practice means the possibility of being represented in the Parliamentary Assembly. For example, this status was obtained by the Federal Republic of Germany in 1950 [Florczak 2009, 260]. In 1951, she became a full member of the Council of Europe [Szymańska-Brałkowska 2009, 165].

⁶ Statute of the Council of Europe (05.05.1949); Polish text in: *Dokumenty europejskie*, vol. 1, ed. A. Przyborowska-Klimczak, E. Skrzydło-Tefelska, Wydawnictwo Morspol, Lublin 1996, p. 66-72.

The concept of associated membership also appears in the accession procedure in the European Union. Both the organization and the member states use it, even though it does not refer to incomplete membership in its scope. In practice, the EU often uses terms such as “association” or “association agreement,” but in none of the cases regulated by the agreements can we speak of any incomplete membership and the creation of a self-standing institutional and functional relationship [Menkes and Waskowski 2004, 307]. Association agreements concluded by the EU create rights and obligations for the EU, its Member States and associated countries. Association agreements, especially those concluded with European countries, play a special role in the development of integration processes in Europe. The procedure for concluding this type of contract is uniform. The association negotiations are conducted by the Commission in accordance with the mandate of the Council. After receiving Parliament’s consent, given by an absolute majority, the Council concludes the Association Agreement by unanimous decision. After being signed by the President of the Council and representatives of the Member States and an associated country, the agreement is subject to ratification in accordance with the constitutional requirements of the parties. In the case of some associated agreements, ratification by all EU Member States may be necessary (this applies to the so-called mixed agreements covering areas in which competences are shared between states). Two categories of associations can be distinguished: associations of states and international organizations based on the provisions of Article 218 TFEU, the so-called treaty associations; the association of overseas countries and territories governed by the provisions of Part IV of the TFEU (Articles 198-204 TFEU), the so-called constitutional associations [Łazowski 2019, 72-73].

CONCLUSION

Therefore, the ability to perform statutory tasks within an international organization does not always mean acquiring full membership. The form of limited powers, which is associated membership, on the one hand, gives the possibility of cooperation and co-decision in the areas specified in the founding agreement, and on the other hand, may deprive the associated state of the right to vote or participate in elections to bodies of a given

organization. The rules and procedure for establishing this form of cooperation with an organization are set out in its statute. On this basis, states wishing to establish political, legal or economic relations with the organization are obliged to implement the provisions of the founding act.

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Status of an Associate Member of an International Organization**Abstract**

Association with an international organization is a separate membership status that can be obtained by a state. This membership enables inter-state cooperation as well as joint decision-making on specific issues. However, it should be remembered that an associate member may be deprived of the right to vote or participate in elections to governing bodies of a given organization. The rules and procedure for establishing this form of cooperation with an organization are set out in its statute. On this basis, states wishing to establish political, legal or economic relations with the organization are obliged to implement the provisions of the founding act.

Keywords: international organization; membership; state; international agreement

Status członka stowarzyszonego organizacji międzynarodowej**Abstrakt**

Stowarzyszenie z organizacją międzynarodową jest odrębnym statusem członkowskim, który może uzyskać państwo. Członkostwo to umożliwia współpracę międzypaństwową, a także wspólne podejmowanie decyzji w określonych kwestiach. Należy jednak pamiętać, że członek stowarzyszony może zostać pozbawiony prawa głosowania lub uczestniczenia w wyborach do władz danej organizacji. Zasady i tryb nawiązywania tej formy współpracy z organizacją określa jej statut. Na tej podstawie państwa pragnące nawiązać z organizacją stosunki polityczne, prawne lub gospodarcze zobowiązane są do realizacji postanowień aktu założycielskiego.

Słowa kluczowe: organizacja międzynarodowa; członkostwo; stan; umowa międzynarodowa

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