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# Withdrawal of a Member State from the International Labour Organization<sup>2</sup>

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## Abstract

The International Labour Organization is a specialised organisation of the United Nations. Regarding membership, the founding agreement provides for the possibility of a Member State withdrawing. These regulations do not include detailed stages of the procedure, but they indicate specific actions that should be taken by the state to withdraw from the ILO. With the end of the withdrawal procedure, the Member State should be prepared for the emerging (political, economic, strategic) consequences of such a procedure. Importantly, the statutory provisions regarding the procedure for withdrawing from the ILO have been implemented many times, with examples being the breaking of the membership ties by South Africa or Indonesia.

**Keywords:** international organisation, state, withdrawal, membership.

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# Wycofanie się państwa członkowskiego z Międzynarodowej Organizacji Pracy<sup>3</sup>

## Streszczenie

Międzynarodowa Organizacja Pracy jest organizacją wyspecjalizowaną ONZ. W przedmiocie członkostwa przepisy umowy założycielskiej przewidują możliwość wystąpienia państwa członkowskiego. Unormowania te nie zawierają szczegółowych etapów prowadzonej procedury, jednak wskazują konkretne działania, które powinno podjąć państwo, by z MOP wystąpić. Wraz z zakończeniem procedury wystąpienia, państwo członkowskie powinno być przygotowane na pojawiające się konsekwencje takiego postępowania (polityczne, gospodarcze, strategiczne). Co ważne, przepisy statutowe w zakresie procedury wystąpienia na gruncie MOP były niejednokrotnie realizowane, czego przykładem może być zerwanie więzi członkowskiej przez RPA czy Indonezję.

**Słowa kluczowe:** organizacja międzynarodowa, państwo, wystąpienie, członkostwo.

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## Introduction

The decision to withdraw a Member State from an international organisation is its act of will. It is it that notifies its intention to the competent organs of the international organisation. Breaking the membership ties on this basis therefore requires one declaration of will in the form of a state decision. The role of the organisation is coordination and control carried out in accordance with the statutes of the procedure.

No normative act contains a legal definition of the concept of leaving an international organisation. There are no legal norms that would indicate how they should be understood. Doctrinal views and practical examples are helpful in this regard. Their role is to explain the actual state of affairs and the legal provisions applied, which result in the breaking of the membership relationship at the initiative of the Member State.

Withdrawal from an intergovernmental organisation is the stage in which a member state voluntarily renounces its contractual obligations and legally severs its membership. The entity that decides to leave the organisational structures is independent and autonomous in its proceedings. The withdrawal is preceded by informing the organisation and the other Member States and then formalising the request, which includes the intention to do so.<sup>4</sup>

Every state has the right to withdraw from an international organisation.<sup>5</sup> It may be expressly provided for in the statutes or it may be presumed to result from the preservation of sovereignty by Member States. In the first case, the statutory provisions of the organisation are in force, which may differ from each other, while in the second case, the states should always meet two identical conditions. Firstly, they should warn other states of their intention to withdraw, and secondly, they should fulfil their obligations towards the international organisation, especially their financial obligations.<sup>6</sup>

The statutes of international organisations which provide for the possibility of leaving their structures indicate the conditions that must be met by the state wishing to withdraw and the authority competent to carry out the procedure. Usually, the

<sup>4</sup> I. von Borzyskowski, F. Vabulas, *The Costs of Membership Withdrawal from Intergovernmental Organizations*, "International Studies Quarterly" 2018, 2, p. 4.

<sup>5</sup> J. Kubicka, *International Organizations: Regional and Subregional Organizations in Europe*, Katowice 2009, p. 12.

<sup>6</sup> L. Antonowicz, *Podręcznik prawa międzynarodowego*, Warszawa 2015, p. 195.

time required for the withdrawal to take effect is also specified, as well as the obligation to settle obligations towards the organisation by the end of the period in which membership formally ends.

The aim of this study is to present the theoretical and practical aspects of the institution of a Member State's withdrawal from the International Labour Organization. The use of the dogmatic method allows for a better understanding of the will of the member states to participate in the ILO, as well as the consequences of losing such membership. The thesis of this study is to indicate how important the legal regulations contained in the ILO statute are, which allow the breaking of the membership relationship at the initiative of a member state.

## International Labour Organization: The Genesis

The auxiliary organisation of the League of Nations, whose task was to develop activities for the normalisation of peaceful coexistence between nations (except for the Permanent Court of International Justice) was the International Labour Organization (ILO).<sup>7</sup> The ILO – established on 11 April 1919 under the Treaty of Versailles<sup>8</sup> during the Paris Peace Conference as an autonomous organisation associated with the League of Nations, after World War II it retained its independence, and from 9 October 1946 it became a specialised organisation of the United Nations.<sup>9</sup> It was the only one to deal with important social problems and the increase in unemployment. The aim of its activity was to improve not only working conditions, but also the standard of living. It also called for the protection of values such as the dignity and equality of every human being. The ILO constitution also provided for the protection of certain personal freedoms, in particular of freedom of expression and association. The aim of the organisation was not only to secure employees, but also to care for increasing general welfare.<sup>10</sup> The ILO's normative output is

<sup>7</sup> W. Balcerak, *Dzieje Ligi Narodów*, Warszawa 1969, p. 24.

<sup>8</sup> Constitution of the International Labour Organization of 9 October 1946, [in:] S. Hubert (ed.), *Zbiór statutów i regulaminów organizacji międzynarodowych. Organizacje wyspecjalizowane ONZ*, Vol. II, Part 1, Warszawa 1966, pp. 63–88; Dz.U. z 1948 r. Nr 43, poz. 308 ze zm. (Official Journal of Laws of 1948 No. 43, item 308 as amended).

<sup>9</sup> J. Symonides, D. Pyć (eds.), *Wielka Encyklopedia Prawa. Prawo międzynarodowe publiczne*, Vol. IV, Warszawa 2014, p. 226.

<sup>10</sup> A. Michalska, *Ochrona praw człowieka w ramach Międzynarodowej Organizacji Pracy*, "Ruch Prawniczy, Ekonomiczny i Socjologiczny" 1979, 3, p. 18.

enormous, and examples include the Convention on Minimum Standards of Social Security of 28 June 1952<sup>11</sup> or the Forced Labour Convention of 28 June 1930.<sup>12</sup>

The ILO accomplishes its goals and tasks through three main bodies composed of representatives of governments, employers and employees. The main bodies are: the International Labour Conference, which has a parliamentary character, conducts the broadly understood policy of the organisation and sets international labour standards. Sessions are held in Geneva as needed, but not less frequently than once a year. It consists of 4 representatives from each Member State (2 government delegates, 1 from the workers' side and 1 from the citizens); the governing body, which is the governing body of the ILO, decides the organisation's policy, adopts a programme of action and adopts the budget and submits it to the International Labour Conference for approval. The Council meets three times a year in Geneva. It is composed of 56 members, including 28 government representatives, 14 representing employers and 14 representing employees – elected by employers 'or employees' delegates, respectively. The term of office is 3 years; The International Labour Office, acting as the permanent secretariat of the organisation, headed by a Director General, appointed by the Administrative Board, from which it receives instructions and to whom it is responsible for the proper performance of its tasks. The work of the Council and the Office is supported by tripartite committees and expert committees in areas such as vocational training, health and safety at work, employee education, and the problems of women and young workers.<sup>13</sup>

## Withdrawal of a Member State from the International Labour Organization

In its founding act, the International Labour Organization provides for the possibility of leaving its structures for the Member States. Pursuant to Article 1(5), 'No member of the International Labour Organization may withdraw from the Organization without prior notification to the Director-General of the International Labour Office. Such notification shall take effect two years from the date it is received by the Director General, provided that the member concerned has fulfilled all financial

<sup>11</sup> Convention (No. 102) of the International Labour Organization relating to Minimum Standards of Social Security of 28 June 1952, Dz.U. z 2005 r. Nr 93, poz. 775 (Official Journal of Laws of 2005, No. 93, item 775).

<sup>12</sup> Convention (No. 29) relating to Forced or Compulsory Labor of 28 June 1930, Dz.U. z 1959 r. Nr 20, poz. 122 ze zm. (Official Journal of Laws of 1959, No. 20, item 122 as amended).

<sup>13</sup> B. Kuźniak, M. Marcinko, M. Inglevič-Citak, *Organizacje międzynarodowe*, 5th ed., Warszawa 2017, p. 99–100.

obligations resulting from membership within that time.<sup>14</sup> It should be emphasised that if a Member State has ratified an international labour convention, its withdrawal does not affect the continued validity of all obligations arising from it or related to it within the period provided for by the convention.<sup>15</sup>

In its regulations, the International Labour Organization, anticipating the possibility of leaving its structures, implements the basic condition for initiating the procedure in the form of a notification addressed to the Director General of the International Labour Office.<sup>16</sup> This notification shall take effect two years from the date of its receipt by the Director. However, the form in which it should be submitted is not indicated. An important condition for an effective withdrawal is also the settlement of financial obligations to the ILO, as the withdrawing state may not have any material arrears with the organisation. In a situation where it has ratified an international labour convention, its withdrawal will not affect the continued validity of all obligations arising out of or related to it for the period provided for in the convention. The regulations contained in this founding act are not detailed.<sup>17</sup> They refer to the basic elements of the withdrawal procedure, indicating: the subject, object and effect of the occurrence.

In practice, these regulations were applied by the Republic of South Africa in 1964, which was threatened with the suspension of its membership rights. In this situation, the government of the state could use this fact in two different but inter-related ways. On the one hand, presenting the organisation as an entity seeking to harm its state, and on the other hand as an entity of greater importance in international relations, for which the relationship with such a state is not important.<sup>18</sup>

The decision to withdraw from this organization was also taken by Indonesia in 1965 in connection with the election of Malaysia to the UN Security Council. At the end of 1966, she notified the ILO bodies about the resumption of cooperation. In 1965, Albania also expressed its willingness to speak, justifying its decision that the organisation subordinated its activities to the politics of Western powers. In turn, in 1975 the USA decided to leave the ILO after unsuccessful attempts to stop the processes of politicising the organisation's activities.<sup>19</sup> Such actions reduced the number of members to 134 countries. The loss of this one meant a loss of

<sup>14</sup> See Article 1(5) ILO Constitution, [in:] S. Hubert (ed.), op. cit., Vol. 2, Part 1, Warszawa 1966, p. 65; Dz.U. z 1948 r. Nr 43, poz. 308 ze zm. (Official Journal of Laws of 1948 No. 43, item 308 as amended).

<sup>15</sup> M. Wiśniewska, *Kwestia wycofania się państwa-członka z organizacji międzynarodowej z uwzględnieniem przypadku Unii Europejskiej*, Toruń 2006, p. 37.

<sup>16</sup> See Article 1(5) ILO Constitution, [in:] S. Hubert (ed.), op. cit., Vol. 2, Part 1, p. 65.

<sup>17</sup> Ibidem, p. 65.

<sup>18</sup> K. Magliveras, *Membership in International Organisations*, [in:] J. Klebbers, A. Wallendahl (eds.), *Research Handbook on the Law of International Organizations*, Northampton 2011, p. 99.

<sup>19</sup> Z.M. Doliwa-Klepacki, *Encyklopedia organizacji międzynarodowych*, Warszawa 1997, p. 101.

\$42.3 million in planned ILO spending under the two-year 1978–1979 programme, as well as a staff reduction as the US provided 25% of the budget through its own funding. In addition to the threats to the very existence of this specialised UN organisation, the decision to withdraw could have been interpreted as a warning signal from the United States to other United Nations organizations to prevent policies from outweighing their primary goals. The departure of the world's first power in Western countries could also destroy the credibility and effectiveness of the UN organisation system, affecting their internal trilateral balance between Western democracies, socialist countries and developing countries.<sup>20</sup>

## Consequences of a Member State's Withdrawal from an International organisation

The conduct of a Member State, aimed at leaving the structures of an international organisation, is the greatest interference that changes its functioning and produces significant political, economic and strategic effects.

The political consequences concern the weakening of international cooperation, the imbalance in the organisation, the domino effect and political tensions. In turn, the economic consequences include deficiencies in the organisation's budget, weakening the position of the organisation on the world stage, unrest on the financial markets, and a decline in competitiveness. The strategic effects, on the other hand, refer to a decline in interest in a given international organisation by other countries and a slowdown in economic growth.<sup>21</sup>

The consequences related to the internal functioning of the organization can be observed in its practical activities. The problems that arise may concern the distribution of the former member's budgetary contributions to the remaining members. In institutions of a technical nature, problems arise in finding ways to replace the services and/or goods that were supplied by the withdrawing member. It is also important to delegate the implementation of existing programs to other Member States. There are also difficulties in determining which entities will replace the former member in limited representation bodies, as well as problems in negotiating a new headquarters agreement when the organization is based in a withdrawing country.<sup>22</sup>

<sup>20</sup> Y. Beigbeder, *The United States' Withdrawal from the International Labour Organisation*, "Relations Industrielles" 1979, 34(2), p. 223.

<sup>21</sup> P. Bobińska, *Próba oceny skutków wyjścia Wielkiej Brytanii z Unii Europejskiej*, Olsztyn 2016, p. 23.

<sup>22</sup> K. Magliveras, op. cit., p. 101.

The financial resources at its disposal at a given moment, which change as a result of the withdrawal of a member state, have a significant impact on the functioning of an international organisation as well as on the possibilities and manner of carrying out its tasks. Financing of international organisations is related to the acquisition of funds, their management and their effective use for internal and external activities.<sup>23</sup> The budget of international organisations consists of income and expenditure. The first group includes an enumeration of the organisation's sources of income and their estimated amount in a given budget period. These sources include membership fees, other own income of the organisation, voluntary donations, one-off membership payments and loans.<sup>24</sup>

The loss of income is one of the many consequences that an international organization has to deal with in the event of a withdrawal of a Member State. It is the responsibility of each entity to pay membership fees that enable specific activities and undertakings. Their reduction affects the entire activity of the organisation, but also other Member States, which in such a situation are forced to cover the missing funds of the organisation to which they belong.<sup>25</sup>

The withdrawal of a member state from an international organisation also has an impact on the decision-making process that takes place within a given organisation, as the reduced number of Member States also means changes in the organisation's decision-making bodies.

Administrative reorganisation of the main bodies affecting the decision-making mechanism concerned, *inter alia*, The International Labour Organization, from which seven Member States have left since World War II, namely Yugoslavia in 1949, Venezuela in 1957, South Africa in 1966, Indonesia in 1967, Albania in 1967, Lesotho in 1971 and United States of America in 1977. Each breakdown of the membership ties resulted in changes in the functioning of the organisation. The lack of even one member influenced the decision-making system, which had to be re-organised.<sup>26</sup>

A political danger and a consequence of the occurrence of at least one member of a given organization is a 'chain reaction' and an increase in the critical attitude towards an increasingly stronger organisation. A decision to withdraw by one

<sup>23</sup> J. Gluchowski, *Międzynarodowe prawo finansowe*, [in:] C. Kosikowski, E. Ruśkowski (eds.), *Finanse publiczne i prawo finansowe*, Warszawa 2008, p. 96.

<sup>24</sup> Z.M. Klepacki, *Encyklopedia teorii i praktyki organizacji międzynarodowych*, Warszawa 1990, p. 290.

<sup>25</sup> After the withdrawal of Great Britain, the budget of the European Union must cope without about EUR 5 billion in net contributions, which in 2014 accounted for 19% of total net contributions, <http://www.Observatorfinansowy.pl/tematyka/makroekonomia/wyjscie-wielkiej-brytanii-odczulyby-wszystkie-kraje-ue/> (access: 24.01.2022).

<sup>26</sup> E. Osieke, *Constitutional Law and Practice in the International Labour Organisation*, "International & Comparative Law Quarterly" 1986, 35(1), p. 31.



Member State may make it easier for other members to take such a decision. In the case of the European Union, Great Britain's so-called list of followers applies to Italy, Hungary, Poland and France. These countries want more sovereignty, less interference in secondary issues, and a policy focus on the convergence of macro-economic indicators.<sup>27</sup>

The withdrawal of a member state also weakens the position and status of an international organisation in the international arena. It is extremely important in trade negotiations with other countries. The image of the organisation is disturbed, which raises concerns in the financial markets, but also in countries that take steps to obtain membership in a given organisation in the future.

## Conclusions

Membership in an international organisation is an important aspect of the foreign policy pursued by the member states. The desire to have the status of a member state depends only on his will. In the case of the International Labour Organization, the possibility of a member state withdrawal is regulated in the statute. A state that strives to sever the membership ties should submit to the provisions of the founding agreement. In the case of the ILO, the withdrawing State should report such intention to the Director-General of the International Labour Office. Such notification shall take effect two years from the date of its receipt. Importantly, the possibility of leaving the ILO is allowed after fulfilling all financial obligations of the previous membership. As the practice of the applied legal norms shows, many countries have decided to leave the ILO. It is also worth noting that this appeal does not close the way to re-membership.

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<sup>27</sup> K. Żurkowska, *BREXIT – analiza wielopłaszczyznowa możliwych skutków*, „Krakowskie Studia Międzynarodowe” 2019, 1, p. 25.

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