

## Secretary-General

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## Secretary-General

### I. Introduction

The most prominent figure, almost the symbolic expression of the world organization as a whole, is the Secretary-General of the United Nations. He represents the UN in the world's public opinion, the UN is identified with him, as he travels restlessly as mediator to

the world's conflict zones, exhorting and admonishing the member states not to forget the poor in the world, the hungry, the refugees and the victims of the massive violations of → human rights all over the world.

And all this in spite of the rather powerless and administrative position which the UN → Charter of the UN provides for the Secretary-General, compared with the competences of the → General Assembly and the → Security Council. But all the holders of this office since the foundation of the UN have managed skillfully and convincingly to widen, step by step, the competences of this office in daily practice, interpreting the Charter in crisis situations to legitimize this additional competence of the Secretary-General, since the other institutions (General Assembly, Security Council) were not able to act according to the Charter goals for the protection of international peace and security. This expansion of competences was either tacitly or expressively tolerated by the General Assembly and the Security Council, sometimes accompanied by an initial massive resistance from among the permanent members of the latter.

These introductory remarks may illustrate why a text dealing with the Secretary-General has to consider two aspects of this office simultaneously: the Charter provisions as well as the political practice of the incumbents, who worked hard to attain new rights and competences for this office, reaching beyond the provisions of the Charter to rights and competences which are nowadays considered to be in accordance with the Charter, on the grounds of customary international law.

The incumbents of this office have interpreted its functions and competences quite differently, and have changed the role of the Secretary-General in the UN system considerably within the limits drawn by other principal organs of the UN. The former holders of the office of the Secretary-General since the foundation of the UN were: Trygve Lie (Norway) from 1 February 1946 to 10 April 1953; Dag Hammarskjöld (Sweden)

from 10 April 1953 to 18 September 1961; Sithu U Thant (Burma) from 3 November 1961 to 31 December 1971; Kurt Waldheim (Austria) from 1 January 1972 to 31 December 1981; Javier Pérez de Cuéllar (Peru) from 1 January 1982 to 31 December 1991; Boutros Boutros-Ghali (Egypt) from 1 January 1992 to 31 December 1996; Kofi Annan (Ghana) from 1 January 1997 to 31 December 2006. The present incumbent (since 1 January 2007) is Ban Ki-moon (Republic of Korea).

### *II. Secretary-General and Secretariat*

Most surprisingly the UN Charter does not count the Secretary-General, but the → Secretariat as among the principal organs in the enumeration in Article 7. But the Charter provisions for the Secretariat in Chapter XV (Arts. 97-101) point to the fact that the two – Secretariat and Secretary-General – shall cooperate as a functional unit on the one hand, but that the range of functions is different in spite of overlapping areas: The Secretariat is the organizational center of the → UN System which is to prepare the work of the other principal organs, to manage the implementation of their decisions, and to keep in permanent touch with the member states. The Secretariat consists of the Secretary-General and the staff which works under his authority and for whom he is responsible (Art. 97).

In addition to this the Secretary-General is the “chief administrative officer” of the United Nations as a whole (Art. 97). Furthermore Articles 98 and 99 entrust the Secretary-General with important tasks and functions in the fields of → preventive diplomacy and → peace-keeping. Thus the Secretary-General and Secretariat are not identical institutions.

### *III. Position of the Secretary-General*

The Secretary-General is appointed by the General Assembly upon the recommendation of the Security Council (Art. 97). In the Security Council a qualified two-thirds majority is required and thus a veto (→ Veto, Right of Veto) of one

the permanent members can block the appointment of a Secretary-General candidate by the General Assembly, since the General Assembly cannot appoint a candidate without the recommendation of the Security Council. The Charter does not contain any provisions concerning the term of office and the possibility of reappointment. Thus the first General Assembly had to make a decision on this matter. Pursuant to the conditions of appointment fixed by UN Doc. A/RES/11(I) of 24 January 1946 on the election of the first Secretary-General, the term of office is for five years, with a possibility of reappointment for another full term. Only once has the UN deviated from this rule: when the Security Council could not find a consensus for a recommendation to the General Assembly at the end of Trygve Lie's first term of office, the General Assembly extended on 1 November 1950 the term of office by three more years without recommendation of the Security Council (UN Doc. A/RES/492(V) of 1 November 1950; voting record: 48 yes, 5 no, 8 abstentions). This bypassing of the UN Charter proved to be a Pyrrhic victory in the end, as the East European states, which had tried to prevent Lie's reappointment by means of the veto of the USSR in the Security Council, refused any form of cooperation in the ensuing months, so that Lie had finally to give in and, in a formal statement before the General Assembly, resigned his office on 10 November 1952 (UN Doc. A/2253 of 10 November 1962, cf. UNYB 1952, 90-91).

As the example clearly illustrates, the mode of the Secretary-General's appointment secures the permanent members of the Security Council a far-reaching influence on the election. But this makes sense as both – Security Council and Secretary-General – have to cooperate closely in protecting international peace and in fulfilling the other tasks of the UN: a policy of the UN in direct conflict with the superpowers would not have any chance of success.

In the legal terms of the Charter provisions the Secretary-General is inde-