



International Organisations

3 January 2024

Duration: 120 minutes

Instructions:

- Each question is weighted separately. Points are allocated to the questions as follows:

Question 1	35 points	17.5 %
Question 2	55 points	27.5 %
Question 3	56 points	28.0 %
Question 4	54 points	27.0 %
	_____	_____
Total	200 points	100 %

We wish you best of luck!

Sample answers are added in italics.

Question 1

1.1 Provide the following details on the OSCE:

- a) In which year was the OSCE established?
 - b) What was the OSCE's name when it was established?
 - c) What was the OSCE's original purpose?
 - d) What is the main purpose of the OSCE today?
-
- a) 1975
 - b) *Conference on Security and Co-operation in Europe (CSCE)*
 - c) *To improve coexistence and cooperation between Eastern and Western Europe during the Cold War as part of a policy of détente*
 - d) *Promotion of peace and security in numerous areas of activity (see question 1.2)*

1.2 Name five areas in which the OSCE is currently active.

[Politico-military dimension:] arms control, border management, conflict prevention, countering terrorism, policing, reforms and co-operation in the security sector

[Economic and environmental dimension (supporting security and stability):] sustainable economic growth, environmental activities, good governance

[Human dimension:] democratization, human rights, observing/monitoring elections

[Cross-dimensional dimension (security challenges that pose a threat across borders):] cyber security, education, gender equality, migration

1.3 Name the following bodies of the OSCE:

- a) the two main decision-making bodies;
 - b) the main executive body; and
 - c) two other bodies.
-
- a) *Summit (meeting of heads of state or government), Ministerial Council (meeting of foreign ministers)*
 - b) *Secretary General*
 - c) *Parliamentary Assembly, Permanent Council, Forum for Security Co-operation, Chairmanship, Troika*

1.4 Why is the OSCE also known as “mini United Nations”?

Because its members come from three continents, i.e., Asia, North America, and Europe

Question 2

2.1 What are the main features of:

- a)** international organisations in general?
- b)** supranational organisations in particular?

a) *International organisations in general:*

- *An international treaty or another international legal instrument as legal basis*
- *States or international organisations (hereinafter “IOs” respectively “IO”) as members*
- *Vested with legal personality*
- *Subject of international law*
- *Powers or competences limited to a specific area*
- *Permanent institution for a common purpose*
- *Autonomous decision-making procedures*
- *Usually, an assembly of state representatives as the main decision-making body*
- *Organs capable to form a will of the international organization*
- *Organs vested with the power to represent the IO*
- *Usually, based on sovereign equality*
- *Sometimes, power to adopt norms addressed to the members, binding or non-binding (e.g., soft law)*

b) *Supranational organisations:*

- *Close legal and political integration of the members*
- *Somewhat between a federation and a confederation of states*
- *Transfer of powers from the members to the IO*
- *Power to adopt binding laws that have precedence over national law*
- *Usually, laws adopted by the IO directly applicable in the member states*
- *Organs independent from the member states*
- *Independent courts competent to render binding decisions*

2.2 What are the main features of non-governmental organisations?

- *Established based on a private initiative*
- *Not an IO*
- *Usually, general and public but no sovereign purpose*
- *Usually, not a subject of international law*
- *Governed by the domestic law of the state in which the organisation is domiciled, and not international law*
- *Usually, institutional structure with headquarters, organs, etc.*

2.3 Under which conditions may a member terminate its membership in an international organisation?

- *In accordance with the specific rules of the IO*
- *In the absence of a withdrawal clause one is left with the problem of ascertaining what obligations the parties intended to assume in this respect. Although the legal position is not settled, it seems generally accepted that mere silence on the question of withdrawal is not adequate to deprive a member of the right to withdraw*

Question 3

3.1 What are the main purposes of the United Nations (hereinafter “UN”)?

- *Maintain international peace and security*
- *Develop friendly relations among nations*
- *Achieve/promote international co-operation in solving problems of an economic, social, cultural, and/or humanitarian character*

3.2 What are the legal effects of resolutions adopted by:

- a)** the UN General Assembly?
- b)** the UN Security Council?

a) *UN General Assembly (hereinafter “UN GA”)*

- *UN GA resolutions are not binding; they are only recommendations, however, with a certain political weight*
- *Two exceptions: (i) internal rules adopted by the UN GA and (ii) UN GA resolutions that have become part of customary international law*

b) *UN Security Council (hereinafter “UN SC”)*

- *Generally, only the UN SC can adopt binding resolutions for all member states (extra points for mentioning Art. 25 in conjunction with Art. 103 UN Charter)*
- *Resolutions can also be binding for non-members based on customary law*
- *However, the legal effects depend on the legal basis of a resolution*
 - *Procedural resolutions and those pertaining to UN-internal matters are binding*
 - *Chapter VI resolutions are usually not binding*
 - *Chapter VII: “recommendations” under Art. 39 UN Charter are not binding; “call[s] upon” under Art. 40 and Art. 41 UN Charter generally means that the respective decision/resolution is binding, however, the wording of the resolution must be interpreted; measures under Art. 42 UN Charter are binding*

3.3 Read the following excerpts from the UN Charter:

Article 2(7): Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state [...].

Article 6: A Member of the United Nations which has persistently violated the Principles contained in the present Charter may be expelled from the Organization by the General Assembly upon the recommendation of the Security Council.

Article 10: The General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and [...] may make recommendations to the Members of the United Nations or to the Security Council or to both on any such questions or matters.

Article 18(1): Each member of the General Assembly shall have one vote.

Article 18(2): Decisions of the General Assembly on important questions shall be made by a two-thirds majority of the members present and voting. These questions shall include: recommendations with respect to the maintenance of international peace and security, the election of the non-permanent members of the Security Council, the election of the members of the Economic and Social Council, the election of members of the Trusteeship Council in accordance with paragraph 1(c) of Article 86, the admission of new Members to the United Nations, the suspension of the rights and privileges of membership, the expulsion of Members, questions relating to the operation of the trusteeship system, and budgetary questions.

Article 27(1): Each member of the Security Council shall have one vote.

Article 27(2): Decisions of the Security Council on procedural matters shall be made by an affirmative vote of nine members.

Article 27(3): Decisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.

Considering the excerpts above, answer the following questions:

- a) Russia has been blocking any resolution of the UN Security Council on the current Russia-Ukraine war. Is there a way in which the UN may take a stand on this war?
- b) Could Russia be expelled from the UN?
- c) Could Russia terminate its membership in the UN on its own initiative?

- a) *Taking a stand*
- *The UN GA can adopt its own resolution in which it condemns the violation of the UN Charter and calls on Russia to stop the attack and to withdraw from Ukraine*
 - *Extra points: this is what happened; see GA RES/ES-11/1 of 2 March 2022*
- b) *Expulsion*
- *Art. 6 UN Charter is the legal basis for expulsions*
 - *The necessary recommendation of the UN SC requires the approval of at least nine members, including all permanent members (Art. 6 in conjunction with Art. 27(3) UN Charter)*
 - *As an “important question”, the decision on expulsion also requires a two-third majority of the UN General Assembly (Art. 18(2) UN Charter)*
 - *Given that Russia will most likely exercise a veto against such a recommendation, an expulsion does not seem a realistic scenario under the circumstances*
- c) *Withdrawal*
- *There is no provision on withdrawal in the UN Charter, neither as to its authorisation nor as to its prohibition*
 - *There is no precedent to date for a withdrawal of a member state from the UN (see, however, Indonesia’s conduct in 1965-66)*
 - *An argument can be made that a withdrawal should be possible, e.g., with reference to the “domestic jurisdiction of any state” (Art. 2(7) UN Charter), or based on the Vienna Convention on the Law of Treaties (e.g., in application of the *clausula rebus sic stantibus*), or pursuant to a general principle of law*

Question 4

Answer the following questions on the European Union (hereinafter “EU”):

- 4.1 Explain the legislative procedure of the EU and its impact on the legislative procedure of the EU member states.
- *The EU is a supranational organization. This implies a transfer of powers from the member states to the Union. To the extent competences are transferred to the EU, the member states – except for concurring powers – are no longer competent to enact their own, i.e., national laws. Law-making powers are essential; without them there is a legal void*
 - *The member states shall adopt all measures under their national laws necessary to implement binding Union acts (extra point if Art. 291 TFEU is mentioned)*

- *EU law is directly applicable in the member states and usually self-executing (extra point if “Van Gend & Loos” is mentioned)*
- *EU law cannot be derogated by domestic law (extra point if “Costa v. Enel” is mentioned)*
- *The EU law’s effectiveness must be guaranteed, and any provision of national law conflicting with it must be set aside (extra point if “Simmenthal II” is mentioned)*
- *Extra points if the main elements of the legislative procedure under Art. 289 and Art. 294 TFEU are set out*

4.2 Name the EU institutions that are involved in the EU legislative procedure and set out their general area of competence.

- *Commission: submits a proposal on legislative acts to the Parliament and the European Council*
- *Parliament: legislative and budgetary powers, along with the European Council*
- *European Council: composed of the heads of states or government of the member states; along with the Parliament legislative and budgetary powers; strategic management body*

4.3 Explain the following legal acts of the EU:

- a) regulation;
 - b) directive;
 - c) decision;
 - d) recommendation; and
 - e) opinion.
-
- a) *Regulation: binding legislative act; must be applied in its entirety across the EU; directly applicable*
 - b) *Directive: legislative act that sets out a goal that all EU member states must achieve; however, it is up to the individual member states to decide how; usually not directly applicable*
 - c) *Decision: not a legislative but an individual act binding on those to whom it is addressed (e.g., a EU member state or an individual); directly applicable*
 - d) *Recommendation: allows EU institutions to express their views known and suggest a line of action without imposing a legal obligation*
 - e) *Opinion: allows EU institutions to make a statement in a non-binding manner, i.e., without imposing a legal obligation on the addressees; may be issued by the main EU institutions (Commission, European Council, Parliament), the Committee of the Regions, and the European Economic and Social Committee*

* * * * *