

Hundred and seventy-first session

171 EX/61
PARIS, 26 April 2005
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**REPORT OF THE COMMITTEE
ON CONVENTIONS AND RECOMMENDATIONS**

1. The Committee on Conventions and Recommendations (CR) held three public working meetings on 14 and 15 April 2005 with Mr Davidson Hepburn (Bahamas) in the Chair. It met on 25 April 2005 to adopt its report. Pursuant to Rule 16.2 of the Rules of Procedure of the Executive Board, the Committee on Conventions and Recommendations elected Mr Antônio Augusto Dayrell de Lima (Brazil) as its temporary Chairperson. The Committee examined in public meeting the following agenda items.

Item 21 Report by the ad hoc working group on relations between the three organs of UNESCO (171 EX/16 and Corr.)

2. After considering this item, the CR Committee endorsed the conclusions of the ad hoc working group on relations between the three organs of UNESCO contained in paragraphs 43 and 52 of document 171 EX/16 and Add., and transmitted its observations to the SP Committee which examined this item later.

Item 27 Examination of the methods of work of the Committee on Conventions and Recommendations, and report of the Committee thereon (171 EX/21 and Add. and Corr.)

3. Introducing the item, the Chairperson gave an account of the informal consultations he had conducted before and during the session with the Committee members and a number of Executive Board Members in preparation for the examination of the item.

4. During the discussions, the members dealt with the questions identified by the Executive Board at its last session (170 EX/Decision 6.2).

A. With regard to the first aspect of the terms of reference of the CR

Strengthening of the first aspect of the terms of reference of the Committee relating to the implementation of UNESCO's standard-setting instruments

5. After considering the list drawn up by the Secretariat of the conventions and recommendations falling within the Committee's purview, together with the status of ratification of the conventions concerned (Annexes I and II of document 171 EX/21), the Committee members

advocated the identification on this list of standard-setting instruments which no longer needed to be monitored (some recommendations having been superseded by the adoption of conventions).

6. Concerning this item, the Legal Adviser said that the conventions and recommendations were adopted by the General Conference and hence, only the States Parties for the conventions and the General Conference for the recommendations could decide on the future of those standard-setting instruments. Furthermore, he drew attention to the fact that some conventions had been adopted following the adoption of recommendations dealing with the same subject (such as the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property vis-à-vis the 1964 Recommendation on the Means of Prohibiting and Preventing the Illicit Export, Import and Transfer of Ownership of Cultural Property), thereby calling into question the necessity of monitoring such recommendations.

7. Before laying down criteria enabling the General Conference to declare, as appropriate, the redundancy of certain of the Organization's recommendations, the Committee considered that it was necessary as a first step to identify, in cooperation with the Secretariat, the priority recommendations on the list of standard-setting instruments.

8. With a view to strengthening the first aspect of its terms of reference, the Committee also proposed that the Secretariat should submit to it every two years a comprehensive report on UNESCO's standard-setting instruments, focusing on the status of ratification of the conventions, for submission to the General Conference.

9. Recalling the importance of the work of the Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the Monitoring of the Right to Education, the Committee also deemed it necessary that this Joint Expert Group should report to it at the end of each of its meetings.

Establishment of specific procedures for reports by Member States on conventions and recommendations

10. The members reiterated the importance of this question, which was also among the measures serving to strengthen the first aspect of the Committee's terms of reference, in particular for the purpose of monitoring the implementation of UNESCO's conventions and recommendations for which no specific institutional mechanism was provided.

11. In this respect, the Committee members stated that harmonized model guidelines should be devised for drawing up reports on each of the eight conventions monitored by the Committee and mentioned in Annex I, part A, of document 171 EX/21.

Organization of work

12. As at the previous session, the members were of the opinion that it was essential for the Committee to have extra working days so that it could fully perform its functions and strengthen the first aspect of its terms of reference.

13. After envisaging a meeting of the Committee in early 2006 to consider the measures mentioned above in paragraphs 7, 8 and 11, the members expressed the wish, in view of the budgetary implications of holding a special meeting outside a Board session, that the Committee should be accorded two additional working days to this end during the 174th session of the Executive Board.

Statistics

14. The members recommended that the Secretariat and the Committee should pursue their collaboration with the UNESCO Institute for Statistics (UIS), in particular in the preparation of draft guidelines.

B. Concerning the second aspect of its terms of reference

Selection of communications

15. The members of the Committee confirmed once more the principle that the Secretariat was not authorized to weed out communications except in cases specified by the Committee, namely, allegations manifestly not within UNESCO's competence and allegations manifestly ill-founded or whose authors are mentally unbalanced.

Application of criteria for admissibility

16. As they had done at the 170th session, the members considered that the criteria for the admissibility of a communication, as set out in paragraph 14(e) of 104 EX/Decision 3.3, remained satisfactory.

17. Nevertheless, they considered that it was necessary to pay more attention to the application of the criteria during examination of the communications. In order to ensure greater clarity on that point in the Committee's work, it was recommended that the Committee should indicate, in the light of 104 EX/Decision 3.3, the criteria underlying all decisions as to the admissibility of a communication.

18. After a lengthy exchange of views, most of the members agreed that it would not be appropriate to set up a subgroup within the Committee to examine the admissibility of all new communications, as the examination of admissibility was the responsibility of the Committee as a whole.

Cooperation between the Committee and the other United Nations human rights bodies

19. Given the specific characteristics of the Executive Board's procedure under 104 EX/Decision 3.3, in relation to similar procedures in United Nations human rights bodies (non-judicial and humanitarian nature, spirit of dialogue, confidentiality – see document 166 EX/23), most members reconfirmed the fact that a case being examined by another agency of the United Nations system did not prevent the Committee from examining it as well. The various procedures were thus not incompatible, but rather complementary.

20. However, the Committee expressed the hope that contacts with other United Nations bodies responsible for protecting human rights would be strengthened.

21. Some members nevertheless considered that, on the contrary, the Committee should stand aside from the examination of communications in favour of other United Nations human rights bodies so as to avoid any "duplication".

Statistics on the procedure

22. The members of the Committee recalled the principle of confidentiality which dominated the entire 104 EX/3.3 procedure, but at the same time reaffirmed the need to publish the private documents of the Committee or make them accessible to the public after a period of 20 years, as

provided for by Rule 29, paragraph 4, of the Rules of Procedure of the Executive Board, in order to give a higher profile to the Committee's achievements.

Role of the Director-General and the Chairperson of the Committee under the 104 EX/Decision 3.3 procedure

23. According to the Committee, the Director-General and the Chairperson of the Committee should continue to play their current role of mediation and use their good offices by taking all requisite diplomatic steps in order to reach a settlement of the cases submitted to the Committee under the 104 EX/3.3 procedure.

C. Conclusions of the Committee

24. With regard to the first aspect of its terms of reference, the Committee recommended that the Executive Board adopt the following measures:

- (a) In order to strengthen and improve the working methods of the Committee in monitoring the implementation of UNESCO's standard-setting instruments:
 - identify, in conjunction with the Secretariat, the priority recommendations in the list of standard-setting instruments;
 - propose new procedures specifically for the monitoring of the implementation of UNESCO conventions and recommendations for which no specific institutional mechanisms is provided;
 - formulate harmonized model guidelines for the eight conventions which are monitored by the Committee;
- (b) Give the Committee two extra working days at the 174th session of the Executive Board (Spring 2006) to carry out the above-mentioned tasks;
- (c) Request the Secretariat to prepare once every two years a comprehensive report on UNESCO's standard-setting instruments, focusing on the status of ratification of conventions, to be submitted to the Executive Board (CR) with a view to its submission to the General Conference;
- (d) Request the Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the Monitoring of the Right to Education to continue to report to it at each of its meetings.

25. Concerning the second aspect of its terms of reference, the Committee decided to make the following improvements to its procedural practice:

- (a) to pay more attention to the application of the criteria of admissibility of communications so as to ensure greater clarity and improve the work of the Committee in that field. To that end, when a communication is declared admissible, the Committee should specify, in the light of 104 EX/Decision 3.3, the criteria and conditions underlying the decision of admissibility;
- (b) to make contact with other international organizations, in particular when they are dealing with the same cases, so as to obtain additional information;

- (c) to publish the documents of the Committee or make them accessible to the public after a period of 20 years, as provided for by Rule 29, paragraph 4, of the Rules of Procedure of the Executive Board, so as to ensure the Committee's achievements are more widely known.

26. Having examined the item, the Committee recommended that the Executive Board adopt the following draft decision:

The Executive Board,

1. Recalling 15 C/Resolution 12.2, 23 C/Resolution 29.1, 32 C/Resolution 77 and 165 EX/Decision 6.2 on the first aspect of the terms of reference of the Committee on Conventions and Recommendations on the implementation of UNESCO's standard-setting instruments,
2. Recalling 19 C/Resolution 6.113, 19 C/Resolution 12.1 and 104 EX/Decision 3.3, as well as the report of the Committee on Conventions and Recommendations contained in document 166 EX/45 Rev. on the second aspect of the terms of reference of the Committee on Conventions and Recommendations on the examination of communications relating to cases and questions concerning the exercise of human rights in UNESCO's fields of competence,
3. Further recalling 170 EX/Decision 6.2,
4. Having examined document 171 EX/21 and Add. and Corr. as well as the report of the Committee on Conventions and Recommendations (CR) on the matter (171 EX/61),
5. Decides, concerning the first aspect of the terms of reference of the Committee on Conventions and Recommendations and in order to strengthen and improve the monitoring of the implementation of UNESCO's standard-setting instruments, to request the Committee:
 - (a) to identify, in conjunction with the Secretariat, the priority recommendations in the list of standard-setting instruments;
 - (b) to propose new procedures specifically for the monitoring of the implementation of UNESCO conventions and recommendations for which no specific institutional mechanism is provided;
 - (c) to formulate model harmonized guidelines for conventions which are monitored by the Committee;
 - (d) to examine the reports of the Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the Monitoring of the Right to Education once a year;
6. Decides to grant the Committee on Conventions and Recommendations two extra working days at its 174th session in order for it to carry out the tasks referred to in subparagraphs (a) to (c) of paragraph 5 of this decision;
7. Recommends to the General Conference at its 33rd session that it invite the Director-General to submit to it at each of its sessions a comprehensive report on UNESCO's standard-setting instruments, focusing on the status of ratification of conventions, with the comments of the Board on the matter;

8. Decides, concerning the second aspect of the terms of reference of the Committee on Conventions and Recommendations, to take note of the improvements made by the Committee to its procedural practice as set out in paragraph 25 of document 171 EX/61 and annexed to this decision.

Item 28 – Guidelines for the Preparation of Reports for the Seventh Consultation of Member States on the Implementation of the Convention and the Recommendation against Discrimination in Education (1960) (171 EX/22 and 171 EX/INF.17)

27. On 15 April 2005, the Committee on Conventions and Recommendations (CR) examined “The Guidelines for the Preparation of Reports for the Seventh Consultation of Member States on the Implementation of the Convention and the Recommendation against Discrimination in Education (1960)” (171 EX/22). The draft Guidelines, annexed to this document, were prepared by the Secretariat, pursuant to decision 6.3 taken by the Executive Board at its 170th session in November 2004. This decision recognizes the Convention against Discrimination in Education as a key pillar in the EFA process. In developing the draft Guidelines, the emphasis was placed on: (i) relating the monitoring of the implementation of the Convention and the Recommendation to the Education for All (EFA) process; (ii) statistical information to be provided by Member States with respect to the rights protected by the Convention and their obligations under the Convention; and (iii) reducing the state burden in reporting, by drawing upon the Guidelines used by the United Nations treaty bodies, especially the United Nations Committee on Economic, Social and Cultural Rights (CESCR).

28. The debate was rich. The categories in tabular form (appended to the Guidelines) such as race and colour; language and religion etc., were reviewed extensively. The debate referred to other target groups or categories such as ethnic groups, national minorities and immigrants, discrimination and indigenous peoples, caste and discrimination based on birth, people in remote geographical areas etc., as well as questions related to discrimination based upon ethnic origin, national or social origin or political opinion. Besides, it was pointed out that in reporting, an important consideration relates to diverse education systems in Member States. Moreover, reporting in tabular form could be only suggestive as it may not be an easy task. The pertinence of the information provided to or available with UNESCO Institute for Statistics (UIS) or the EFA Global Monitoring Reports was given consideration. The debate indicated the need for revising certain categories in Table No. 1. Questions related to analysis of statistical information, further use and follow up were also raised.

29. Responding to the debate, the representative of the Education Sector provided necessary information and clarifications. Requesting information from Member States in tabular form was an innovative measure, but rather difficult and the draft Guidelines incorporated this approach in deference to views expressed during the debate in the previous session of CR. Care was taken that the categorization in tabular form conforms to the provisions in Article 2 of the Convention. Moreover, the provisions in UNESCO’s Medium-Term Strategy (2002-2007) (31 C/4, para. 62) pertaining to the implementation of the Convention, quoted in paragraph 11 of the draft Guidelines, are highly pertinent in making the reporting broad-based. With their emphasis on reaching the unreached, these provisions could take care of the concerns expressed by Member States.

30. An important dimension of the debate was the focus on the complementarity with the United Nations Committee on Economic, Social and Cultural Rights (CESCR) in monitoring the implementation of the Convention. It was pointed out that Member States need not duplicate the information communicated to the United Nations treaty bodies. In this respect, the work accomplished by the Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the Monitoring of the Right to Education figured in the debate. In elaborating the Guidelines, the Secretariat had

benefited from the discussion by the Joint Expert Group on the core issues during its second meeting in May 2004. Subsequent interaction with the members of the Joint Expert Group from CESCR were very useful.

31. During the course of the debate, the work done by the Secretariat was highly commended. It was acknowledged that adopting the rights-based approach (rights protected in the Convention), reflected in the Guidelines, could be a step ahead of the Guidelines used by the United Nations treaty bodies in monitoring. The draft Guidelines were approved by CR, with indications for certain modifications, in particular revision in Table 1.

32. During discussions on the draft decision, it was agreed to add a new paragraph, requesting the Director-General to organize, on the sidelines of the General Conference at its 33rd session in 2005, an informal Information Meeting with the States Parties to the Convention against Discrimination in Education and Member States with a view to apprising them of the significance of reporting obligations, and methodology for the preparation of Reports on the measures taken for the implementation of the Convention. Its usefulness for the National Commissions for cooperation with UNESCO and those responsible for the preparation of reports was mentioned. In this respect, activities aimed at capacity-building and training programmes for the benefit of the field offices as well as for assisting Member States in fulfilling their reporting obligations under the Convention and the Recommendation deserve support.

33. In view of the above, the Committee recommends to the Executive Board to adopt the draft decision, mentioned below:

The Executive Board,

1. Recalling 170 EX/Decision 6.3,
2. Having examined document 171 EX/22,
3. Bearing in mind Member States' obligations under Article VIII of UNESCO's Constitution, and recognizing the Convention and Recommendation against Discrimination in Education as a key pillar in the Education for All (EFA) process,
4. Approves the Guidelines prepared for the seventh consultation of Member States on the implementation of the Convention and the Recommendation against Discrimination in Education (1960) as revised in Annex 1 to document 171 EX/22;
5. Requests the Director-General to launch the seventh consultation, soliciting from Member States reports on the implementation of the Convention and the Recommendation, to be prepared and submitted within a period of one year to UNESCO;
6. Also requests the Director-General to organize, on the sidelines of the 33rd session of the General Conference of UNESCO, an informal information meeting of States Parties to the Convention against Discrimination in Education and Member States in order to make them more aware of the significance of the reports and the methodology for their preparation;
7. Further requests the Director-General to report to it at its spring session in 2007 on the results of the seventh consultation in the form of an analytical report, along with a report on the actions foreseen regarding the organization on the sidelines of the 34th session of the General Conference of a meeting of States Parties to the Convention

against Discrimination in Education, as stipulated in 165 EX/Decision 6.2 and 170 EX/Decision 6.3;

8. Reminds Member States of the obligation “to make the text of any convention or recommendation known to the bodies, target groups and other entities interested in matters dealt with therein” in accordance with Article 16(2) of the Rules of Procedure concerning Recommendations to Member States and International Conventions, as amended by the General Conference in October 2003.

Item 29 Monitoring the ratification of conventions (171 EX/49)

34. Following the inclusion of this item on the agenda of the Executive Board at its request, Ecuador, a member of the Committee, presented document 171 EX/49 on the monitoring of the ratification of conventions. The member concerned explained that the proposal to form a commission to monitor the ratification of conventions had the principal objective of sensitizing Member States to the importance of completing the process of approval and ratification of conventions prior to their entry into force.

35. After an exchange of views, the members of the Committee congratulated Ecuador on its initiative which was intended to promote the acceptance and implementation by Member States of UNESCO conventions. However, the Committee considered that it would not be desirable to form such a commission.

36. In the light of the foregoing, the Committee recommended to the Executive Board that it adopt the following draft decision:

The Executive Board,

1. Having examined document 171 EX/49,
2. Thanks Ecuador for its proposal designed to promote the acceptance and implementation by Member States of UNESCO conventions;
3. Takes note of the content of the report of the Committee on Conventions and Recommendations on the matter (171 EX/61).