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REPORT ON THE EIGHTH AND NINTH MEETINGS OF THE JOINT EXPERT GROUP UNESCO (CR)/ECOSOC (CESCR) ON THE MONITORING OF THE RIGHT TO EDUCATION

SUMMARY

In accordance with 171 EX/Decision 27 and 179 EX/Decision 24, the Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the Monitoring of the Right to Education submits to the Executive Board a report on its eighth and ninth meetings, which addressed the theme: Inclusive Dimensions of the Right to Education.

An identical report is being submitted by CESCR to ECOSOC.

Taking into account the recommendations put forth in the Report, the Committee on Conventions and Recommendations may wish to provide further guidance to the Joint Expert Group with regard to its future work.

Policy implications of a financial or administrative nature have already been foreseen in document 34 C/5. There are therefore no additional implications of this kind.

Action expected of the Executive Board: Decision in paragraph 15.

1. The eighth and ninth meetings of the Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the Monitoring of the Right to Education¹ were held in Geneva on 6 May 2008 and 25 November 2008 respectively. Following the ninth meeting, the Joint Expert Group presented its recommendations at the 48th session of the International Conference on Education (ICE). Ms Virginia B. Dandan and Mr Eibe Riedel, members of the Committee on Economic, Social and Cultural Rights (CESCR) and of the Joint Expert Group, Mr José Duarte Ramalho Ortigão, Ambassador and Permanent Delegate of Portugal to UNESCO and member of the Joint Expert

¹ The Joint Expert Group, established by the UNESCO's Executive Board in October 2001 (162 EX/Decision 5.4), has a broad mandate of monitoring the right to education in all its dimensions.

Group, and Mr Brian Figaji, member of the Committee on Conventions and Recommendations of UNESCO (CR) and the Joint Expert Group, participated in these meetings.²

2. Mr Philippe Texier, Chairperson of CESC, welcomed the members of the Joint Expert Group at the eighth meeting and underlined the significance of the work it accomplished for the realization of the right to education in the context of the ongoing collaboration between UNESCO and CESC. The ninth meeting was opened by Mr Ibrahim Salama, Chief of the Human Rights Treaties Branch, OHCHR, who expressed his appreciation for the intense and fruitful reflection conducted by this joint institutional mechanism devoted to the right to education. The eighth and ninth meetings were chaired by Mr Riedel and Mr Figaji, respectively.

3. In both meetings, the Joint Expert Group addressed the theme “Inclusive Dimensions of the Right to Education”. The main objective of these meetings was to discuss questions related to universalizing the right to education for everyone without discrimination or exclusion. A concept paper prepared by UNESCO and the OHCHR in consultation with Joint Expert Group members provided the basis for the discussion.

4. The members of the Joint Expert Group analysed the right to education as protected in the international instruments – a right that is universal and does not permit any exclusion – and proceeded to an examination of the inclusive dimensions of this right, as enshrined in relevant UNESCO conventions and recommendations³ as well as in United Nations human rights treaties.⁴ Reference was also made to General Comment No. 13 on Article 13 of the International Covenant on Economic, Social and Cultural Rights (“the Covenant”), which provides that “education must be accessible to all, especially the most vulnerable groups, *in law and fact*, without discrimination on any of the prohibited grounds” (para. 6(b)).

5. The Joint Expert Group underlined the significance of the obligations with respect to the inclusive dimensions of the right to education, in particular relating to:

- (i) *universal access to quality primary education free of charge for all*.⁵ The Joint Expert Group recalled its earlier recommendation, in which it had stressed the importance of full compliance by States with their *core obligations* to make primary education universally available free of charge for all without discrimination or exclusion;

² Other participants were Ms Mónica Moutinho (First Secretary, Permanent Delegation of Portugal to UNESCO) (eighth meeting), Mr Paulo David (Senior Human Rights Officer at the Office of the High Commissioner for Human Rights, OHCHR) (ninth meeting), Ms Carolin Schleker (Associate Human Rights Officer, OHCHR), Ms Costanza Farina, (International Bureau of Education (IBE)/UNESCO) (eighth meeting), Mr Alfred Fernandez, (Director General, The Right to Education and Freedom of Education (OIDE)) (eighth meeting), Ms Rolla Mourné (Assistant Programme Specialist, UNESCO Division for Basic Education) (ninth meeting) and Mr Kishore Singh (Senior Programme Specialist, UNESCO Division for Basic Education), Secretary of the Joint Expert Group.

³ Conventions and recommendations adopted by UNESCO in the field of education provide normative bases of universal access to education and lay down international obligations for the right to education for all: national, ethnic, religious and linguistic minorities, indigenous people, the socially and economically marginalized, vulnerable groups, immigrants, the disabled and handicapped, refugees, the rural-urban poor and for millions of those deprived of education due to poverty. Moreover, they provide normative bases for education in its diverse forms such as adult education, community education, special education, etc. These instruments embody certain key concepts such as inclusive approaches to education as well as continuing education and lifelong learning.

⁴ Convention on the Rights of the Child (Articles 8-30); Convention on the Elimination of All Forms of Discrimination against Women (Article 10); International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (Articles 12, 30 and 45) and Convention on the Rights of Persons with Disabilities (Article 24). In addition to these United Nations human rights conventions, some United Nations declarations such as the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities and the Declaration on the Rights of Indigenous Peoples (Article 14) cover the right to education of minorities and indigenous peoples.

⁵ This obligation is laid down in the Convention against Discrimination in Education (Article 4(a)); International Covenant on Economic, Social and Cultural Rights (Article 13, para. 2(a)); Convention on the Rights of the Child (Article 28, para. 1(a)); Dakar Framework for Action (goal 2) and Millennium Development Goal 2.

- (ii) literacy, continuing education and lifelong learning without exclusion;⁶
- (iii) equal access to quality secondary and technical and vocational education;⁷ and
- (iv) merit-based access to higher education without exclusion.⁸

6. The members of the Joint Expert Group emphasized that the right to education should be implemented more vigorously, that the level of awareness of its inclusive dimensions should be enhanced; and that States are obliged to promote the right to education universally.

Recommendation 1: The Joint Expert Group underlines the crucial importance of the inclusive dimensions of the right to education, which constitute the very foundation of universalizing access to education without discrimination or exclusion, for advancing the Education for All (EFA) agenda.

7. The members of the Joint Expert Group examined questions relating to the effective application of international norms at the national level concerning the inclusive dimensions of the right to education. They underlined the need to provide effective measures, in line with the Communiqué issued at the Ministerial Round Table on Education and Economic Development (October 2007)⁹ as well as the follow-up to the Communiqué issued at the Seventh Meeting of the High-Level Group on EFA (December 2007).¹⁰ Moreover, the following issues should be given due consideration: questions relating to maintaining *minimum standards* of quality education,¹¹ both in public and private schools; and the equitable deployment of qualified teachers in rural and urban areas, among others.

Recommendation 2: The Joint Expert Group strongly recommends to the International Conference of Education to promote the inclusive dimensions of the right to education, as reflected in human rights treaties adopted by the United Nations, and in the conventions and recommendations in the field of education adopted by UNESCO, and to appeal to Member States to reflect these dimensions in their legal systems, education policies and strategies.

8. The Joint Expert Group stressed that the right to education is of paramount importance and must be protected everywhere, including in countries where the realization of the right to education is difficult, such as in conflict and post-conflict situations, as well as during or after natural disasters.

⁶ UNESCO's Recommendation on the Development of Adult Education (1976), Convention against Discrimination in Education (Article 4.C), International Covenant (Article 13, para. 2(d)), Dakar goal 4.

⁷ Convention against Discrimination in Education, (Article 4(a)); International Covenant (Article 13, para. 2(b)), Convention on the Rights of the Child, (Article 28.1(a)).

⁸ World Declaration on Higher Education for the Twenty-first Century (1998), Convention against Discrimination in Education (Article 4(a)), and International Covenant (Article 13, para. 2(c)); Convention on the Rights of the Child (Article 28, para. 1(a)).

⁹ In this Ministerial Round Table, organized in October 2007 during the 34th session of the UNESCO General Conference, the Ministers stressed that "access to education is addressed, and this right urgently realized, especially for the poorest and most marginalized, including more than 72 million children not in school and 774 million adults without literacy skills."

¹⁰ At the Seventh Meeting of the High-Level Group on Education for All, organized from 11 to 13 December 2007 in Dakar, Senegal, the Ministers of Education examined equity and inclusion, and stressed the need to "identify steps to strengthen and harmonize, where necessary, the legislative framework within which the right to education is guaranteed".

¹¹ ILO/UNESCO Recommendation on the Status of Teachers (1966), Convention against Discrimination in Education (Article 4(b)).

9. Action at the national level is crucial for overcoming inequalities in education.¹² Moreover, it is essential to eliminate existing disparities in the quality of education. Concerning inequalities in education, the *EFA Global Monitoring Reports (GMR 2008 and 2009)* indicate in which areas action is required.¹³ States should be urged to undertake and step up promotional measures, including affirmative action, incentive and compensatory measures, grants and financial aid, etc. All actors in the field of education should be encouraged to give primary attention to equality, inclusion and social cohesion in their undertakings, and to promote the right to education for all vulnerable groups and for those who are socially, economically or culturally marginalized, especially for children from poor households, to ensure that no one is excluded.

Recommendation 3: The Joint Expert Group emphasizes the legal obligations and political responsibility of Member States to give effect to the inclusive dimensions of the right to education, by promoting inclusive education for all at the national level, and suggests that the ICE encourage Member States to increase necessary assistance to those countries which are most in need, cognizant of the fact that Africa is among UNESCO's top priorities.

10. The members of the Joint Expert Group discussed the concepts of “equity” and “equality” in the context of “inclusive education” and considered it important to have a clear definition of these terms. They suggested that these concepts require further discussion and clarification (for example, the concept of “equity” from a human rights perspective in some respects differs to how the term is used by UNESCO, as reflected in the *Global Monitoring Reports*).

11. Furthermore, the Joint Expert Group considered it important to examine how the inclusive dimensions of the right to education are reflected in constitutions and national legislation. Therefore, a review and in-depth analysis of the constitutional and legislative provisions and practice on the right to education for promoting national action would be of great importance.

12. The Joint Expert Group suggested that both CR and CESCRC place greater emphasis on the inclusive dimensions of the right to education, while monitoring its implementation. Measures taken by States to comply with their obligation to realize these inclusive dimensions should contribute to the follow-up on UNESCO conventions and recommendations in the field of education, as well as on the concluding observations adopted by CESCRC.

13. Emphasizing Education for All (EFA) as a priority, the members of the Joint Expert Group discussed the global financial crisis as a factor of critical importance that might be used as an excuse for diminishing funding to achieve EFA. This could have a negative impact on the right to quality education. In this context, the concerns expressed in the thematic debate of the ICE on 25 November 2008 were shared by the members of the Joint Expert Group.

Recommendation 4: The Joint Expert Group expressed its deep concern regarding the adverse impact that the global financial crisis may have on the realization of the right to quality education for all. As mentioned in the introductory debate of the 48th ICE, the financial crisis should not be an excuse for Member States to failing to fulfil their obligations. On the contrary, Member States should provide the necessary resources to ensure the full implementation of the right to quality education for all.

¹² Cf. 34 C/Resolution 13 adopted by the General Conference of UNESCO at its 34th session in October 2007. This resolution requests UNESCO's Director-General “to intensify his efforts to encourage Member States to adopt effective domestic measures intended to secure education for all without discrimination or exclusion as part of the EFA process”.

¹³ *The EFA Global Monitoring Report (GMR) 2008* states that “Education expansion does not necessarily translate into reduced inequality.” (p. 23) and that “[m]ost countries, even those with relatively high primary enrolment ratios, need to address equity issues” (p. 6). With respect to its theme of overcoming inequality and lessons for national governance reforms, the *GMR 2009* underlines the need to *commit to the reduction of disparities* based on wealth, location, ethnicity, gender and other indicators for disadvantage. “Governments should develop well defined targets for reducing disparities and monitor progress towards their achievement” (see “Overcoming Inequality: why governance matters”, *EFA Global Monitoring Report 2009*, p. 4).

Financial and administrative implications

14. The Joint Expert Group decided to address the issues of mother tongue education, multilingualism and the right to education at their tenth meeting to be held at UNESCO Headquarters in May 2009, following up on the right to education aspects of the thematic debate held during the 180th session of the Executive Board. This activity is foreseen in the 34 C/5 work plans. There are no further financial and administrative implications.

Action expected of the Executive Board

15. In the light of the foregoing, the Executive Board may wish to adopt the following draft decision:

The Executive Board,

1. Recalling 162 EX/Decision 5.4, 171 EX/Decision 27, 172 EX/Decision 26, 175 EX/Decision 29, 177 EX/Decision 37 and 179 EX/ Decision 24,
2. Having examined document 181 EX/28,
3. Expresses its appreciation of the work of the Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the Monitoring of the Right to Education;
4. Recognizes the key importance of the theme “Inclusive Dimensions of the Right to Education” addressed by the Joint Expert Group in its eight and ninth meetings, in the context of the 48th Session of the International Conference on Education (Geneva, November 2008);
5. Invites Member States to give special consideration to the inclusive dimensions of the right to education, as elucidated by the Joint Expert Group, in their legal systems, education policies and strategies for advancing education for all (EFA);
6. Also invites Member States to provide, in spite of current global financial crisis, the necessary resources to ensure the full implementation of the right to quality education for all;
7. Requests the Director-General to consider the suggestions and recommendations made by the Joint Expert Group in document 181 EX/28 for follow-up action;
8. Invites the Joint Expert Group to continue its consultations related to the examination of key issues within its broad mandate of monitoring the right to education in all its dimensions;
9. Requests the Joint Expert Group to report to the Executive Board at its 184th session.