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Cultural Organization

# Executive Board

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## REPORT OF THE COMMITTEE ON CONVENTIONS AND RECOMMENDATIONS

1. The Committee on Conventions and Recommendations (CR) held two public work meetings on 27 September 2013 chaired by Ms Assel Utegenova, representative of Kazakhstan. The Committee met on 9 October 2013 to adopt this report.
2. The Committee on Conventions and Recommendations examined the following items on the agenda of the Executive Board:

### **Item 19 Methods of work of the Committee on Conventions and Recommendations** (192 EX/19)

3. By way of introduction, the Chair of the CR Committee said that during the debates at the Committee's previous session on the item on the examination of communications transmitted to the Committee on Conventions and Recommendations in pursuance of 104 EX/Decision 3.3, the members of the Committee had called for a review of the Committee's working methods. As the matter had not been on the agenda of the Executive Board's 191st session, the Committee had not been able to discuss it. As agreed, the Chair of the Committee had then proposed to the Executive Board, in plenary, the inclusion of an item on the Committee's working methods in the agenda of the Board's 192nd session. Continuing her introduction to item 19, the Chair introduced document 192 EX/19, recalling the two complementary components of the Committee's terms of reference in accordance with 188 EX/Decision 11, and said that a member of the Committee (Cuba) had submitted a draft decision on the item which was contained in document 192 EX/CR/DR.1.

4. The author of the draft decision then presented his proposal to establish a working group comprised of all the members of the Committee and other Member States concerned, with a view to reviewing and improving the working methods and the procedures of the Committee, and to submitting a report to the Committee at the Board's 194th session. In that connection, the draft decision followed on from earlier reviews of the Committee's working methods which had taken place periodically in the past. Furthermore, while emphasizing that the measure was absolutely essential in the current context of reforming the Organization to rise to the challenges of the contemporary world, the author of the draft decision said that the Committee's working methods should be improved so as to avoid any duplication of work and to ensure that the major part of the Committee's working meetings were not devoted to the "104 procedure" to the detriment of implementation of standard-setting instruments.

5. While supporting the draft decision thus presented, some members of the Committee emphasized the need for the Organization, owing to the budgetary and financial crisis it was experiencing, to focus on its priorities and make its working methods, including those of the Executive Board's CR Committee, more effective. On that last point, they raised some general questions about the Committee's working methods under the "104 procedure" which the working

group as envisaged should consider, such as the excessive length of the examination of certain communications, the interpretation of certain of the admissibility criteria contained in paragraph 14 (a) of 104 EX/Decision 3.3, the overlap with other bodies established to protect human rights and the rationalization of working documents. They also considered that the Committee's working meetings should accord a far more important place to monitoring the implementation of the standard-setting instruments that the CR Committee was required to monitor, a priority of the Organization, such as the 1960 Convention against Discrimination in Education, in order to rebalance the two aspects of the Committee's terms of reference.

6. While expressing their general approval of any process that might improve the Organization's working methods, other members of the Committee said that the Committee had already reviewed its working methods, including quite recently, in 2010. As to the "104 procedure", which they considered remained as relevant and specific as ever, including in terms of its complementarity with other United Nations human rights protection bodies, they said that the most recent review of working methods had enabled fresh improvements to procedural practice that had already been applied, such as the possibility for the Committee to defer consideration of certain communications to a session other than the subsequent session. Concerning the first aspect of the CR Committee's terms of reference, they stressed that it was crucial for it to be strengthened, in particular by improving the quality of working documents, in order to try and remedy the Committee members' lack of participation in the debates on that point despite considerable Secretariat representation to answer any questions the Committee might have, and the recurrent low rate of replies to the consultations launched by the Secretariat.

7. At the end of the general debate, the Committee members examined the draft decision contained in document 192 EX/CR/DR.1 as amended by its author during his presentation. In the course of the examination, the draft decision was further amended, in particular to part of its paragraphs 5 to 7 with the insertion of a new paragraph.

8. In conclusion, the Committee decided to establish a working group, operating in a spirit of consensus, comprised of all the members of the Committee on Conventions and Recommendations as established by the Board at its 193rd session and of any other Member State of UNESCO that could attend as observer in order to agree through consultations on clearer rules and procedures to improve the work and effectiveness of the Committee, in the context of the two aspects of its terms of reference.

9. The Committee recommended the following draft decision to the Executive Board:

The Executive Board,

1. Reaffirming that the Committee on Conventions and Recommendations (CR) has a dual mandate, both tasks being of equal importance,
2. Recalling 104 EX/Decision 3.3, adopted on 26 April 1978, entitled "Study of the procedures which should be followed in the examination of cases and questions which might be submitted to UNESCO concerning the exercise of human rights in its spheres of competence, in order to make its action more effective",
3. Also recalling 181 EX/Decision 26 and 182 EX/Decision 30, both of which concern the issue of the working methods of the Committee on Conventions and Recommendations regarding the "104 procedure",
4. Recalling as well 185 EX/Decision 22, on the review of the working methods of the Committee on Conventions and Recommendations (CR) within the framework of 104 EX/Decision 3.3,

5. Noting that it would also be necessary to examine the monitoring procedure of the application of conventions and recommendations,
6. Considering that it could be necessary to continue evaluating and reviewing the aforementioned working methods of the Committee on Conventions and Recommendations in order to agree through consultations on clearer rules and procedures to improve the work and effectiveness of the Committee,
7. Decides to this end to establish a working group, operating in a spirit of consensus, comprised of all the members of the Committee on Conventions and Recommendations as established by the Board at its 193rd session and of any other Member State of UNESCO that could attend as observer;
8. Requests the working group to report at the latest to the 196th session of the Committee.

## **Item 20 Implementation of standard-setting instruments**

### **General monitoring (192 EX/20 Part I and 192 EX/20 INF.)**

10. By way of introduction, the Legal Adviser, representing the Director-General, presented document 192 EX/20 Part I containing an overall report on the UNESCO conventions and recommendations that the CR Committee was required to monitor and an analysis of current trends in monitoring the implementation of each of the instruments. She also presented document 192 EX/20 INF. which contained particulars of the standard-setting activities envisaged at UNESCO and a comprehensive report on all the Organization's standard-setting instruments, and more particularly on the status of ratification of conventions.

11. One member of the Committee recalled the need to improve the Committee's working methods so as to strengthen the first aspect of its terms of reference on monitoring the implementation of UNESCO's standard-setting instruments.

12. Then, regarding the 1960 Convention against Discrimination in Education, another member of the Committee asked for additional information as to why the Convention had only been ratified by 99 States Members of UNESCO and on the impact of the Organization's current financial difficulties on the management and regular updating of the global database on the right to education to be launched in late 2013. Lastly, concerning the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, the member asked about the impact of the recent establishment of the Subsidiary Committee of the 1970 Convention on the monitoring of the instrument by the CR Committee. Some members of the Committee emphasized the need that the CR Committee be informed on the monitoring of the 1970 Convention.

13. Finally, with respect to the 1993 Recommendation on the Recognition of Studies and Qualifications in Higher Education, another member of the Committee underscored the importance of preparing the global UNESCO instrument in that field referred to in paragraph 34 of document 192 EX/20 Part I.

14. Replying to the Committee members' questions and comments, the Director of the Education Sector's Division for Basic Learning and Skills Development, representing the Education Sector, said that since the Eighth Consultation of Member States on the Implementation of the 1960 Convention and the Recommendation against Discrimination in Education, 11 Member States had ratified the Convention (a new ratification having been received recently after document 192 EX/20 Part I had been drafted) and 16 had started the lengthy ratification process, thereby showing the lasting effects of the most recent ratification campaign launched by the Secretariat in 2010 on the occasion of the 1960 Convention's fiftieth anniversary. Moreover, concerning the global database,

the Education Sector representative recalled that it is one of the key activities to ensure the constant monitoring of the implementation of education-related normative instruments. On that last point, she said that this important task of the Secretariat was performed with the current resources allocated to the Education Sector and will continue to do so within the resources to be allocated.

15. Lastly, the Legal Adviser, representing the Director-General, said that at their Second Meeting, held in June 2012, the States Parties to the 1970 Convention had adopted Rules of Procedure establishing a Subsidiary Committee, composed of representatives of 18 States Parties, responsible in particular for preparing and submitting recommendations and guidelines to the Meeting of States Parties that might contribute to the implementation of the Convention. In that connection, the representative of the Director-General confirmed that following that sovereign decision of the States Parties to the Convention, implementation of the instrument would no longer be monitored by the CR Committee, but by the Subsidiary Committee which had already started its work at its first meeting on 2 and 3 July 2013.

16. At the end of the debate, the Committee members decided to recommend the following draft decision to the Executive Board:

The Executive Board,

1. Recalling 15 C/Resolution 12.2, 23 C/Resolution 29.1, 165 EX/Decision 6.2, 32 C/Resolution 77, 170 EX/Decision 6.2, 171 EX/Decision 27, 174 EX/Decision 21, 175 EX/Decision 28, 176 EX/Decision 33, 177 EX/Decision 35 (I) and (II), 34 C/Resolution 87, 180 EX/Decision 31, 181 EX/Decision 27, 182 EX/Decision 31, 184 EX/Decision 20, 185 EX/Decision 23 (I), 186 EX/Decision 19 (I), 187 EX/Decision 20 (I), 189 EX/Decision 13 (I), 190 EX/Decision 24 (I) and 191 EX/Decision 20 (I) relating to the first aspect of the terms of reference of the Committee on Conventions and Recommendations (CR), which concerns the implementation of standard-setting instruments,
2. Having examined document 192 EX/20 Part I, 192 EX/20.INF and the report of the Committee on Conventions and Recommendations thereon (192 EX/45),
3. Urges Member States once again to fulfil their legal obligations under Article VIII of the Constitution of UNESCO regarding periodic reports on the action taken on conventions and recommendations;
4. Requests the Director-General to ensure the implementation of the legal framework for the enforcement of standard-setting instruments, adopted at its 177th session, by the programme sectors and the UNESCO Institute of Statistics (UIS), which have responsibility for the conventions and recommendations monitored by the Committee on Conventions and Recommendations;
5. Decides to continue consideration of the matter at its 194th session.

**Implementation of the 1960 Convention and Recommendation against  
Discrimination in Education**  
(192 EX/20 Part II)

17. The Director of the Division for Basic Learning and Skills, representative of the Director-General, presented the document 192 EX/20 Part II that reports on the results of the 8th Consultation of Member States on the Implementation of the Convention and the Recommendation against Discrimination in Education which was launched in 2011 and covering the period 2006-2011. The report was prepared on the basis of 58 national reports received by the Secretariat. She recalled that since the adoption of these normative instruments in 1960, the Secretariat has conducted seven periodic consultations of Member States for which the final reports were

examined by the CR Committee. She noted that the present Consultation was conducted on the basis of guidelines developed by Secretariat and approved by the Executive Board (186 EX/Decision 19 (II)). She also informed the Committee members that an extensive report is available in the six working languages of the Executive Board on the UNESCO Right to Education webpage dedicated to the Eighth Consultation.

18. One member of the Committee suggested to include in paragraph 6 of the draft decision contained in paragraph 21 of document 192 EX/20 Part II a reference to the *1962 Protocol instituting a Conciliation and Good Offices Commission to be responsible for seeking the settlement of any dispute which might arise between States Parties to the Convention against Discrimination in Education* in view of requesting its States Parties to look into the malfunctioning of the Commission due to the fact that it had never been called upon to make use of its good offices or to perform its conciliation-related functions. As indicated in footnote 2 of the document 192 EX/20 Part I, the Director-General launched a consultation with States Parties to the 1962 Protocol concerning the functioning of the Commission within the framework of its call for nominations on 26 February 2013 for the election of members of the Commission at the 37th session of the General Conference. As at 27 September 2013, no proposals on the functioning of the Commission had been received by the Secretariat.

19. After examining the item, the Committee members decided to recommend the following draft decision to the Executive Board:

The Executive Board,

1. Recalling 34 C/Resolution 13, 177 EX/Decision 35 (I and II), 184 EX/Decision 20 and 186 EX/Decision 19 (II),
2. Having examined document 192 EX/20 Part II and the report of the Committee on Conventions and Recommendations thereon (192 EX/45),
3. Notes with appreciation the replies of the 58 Member States that submitted their reports within the eighth consultation on the implementation of the 1960 Convention and Recommendation against Discrimination in Education, 44 of them being States Parties to the Convention;
4. Calls upon Member States that have not yet adhered to the Convention to do so, and to make the 1960 Convention and Recommendation, as well as the 1962 Protocol instituting a Conciliation and Good Offices Commission, better known, in line with Article 16.2 of the Rules of Procedure concerning recommendations to Member States and international conventions covered by the terms of Article IV, paragraph 4, of the Constitution of UNESCO;
5. Commends the steps undertaken at national level on meeting the continuing challenges to fully implement the provisions of the Convention and the Recommendation;
6. Invites the Director-General to take appropriate action as follow-up to the Eighth Consultation and to intensify normative action for education for all without discrimination or exclusion, and invites also her to continue to urge the States Parties to the 1962 Protocol to look into the malfunctioning of the Conciliation and Good offices Commission during the 50 years following the adoption of the Protocol, and requests her to make the national reports available online through the newly-established global database on the right to education;
7. Further requests the Director-General to transmit to the General Conference at its 37th session document 192 EX/20 Part II, together with the Executive Board's

comments and any observations or comments that the Director-General may wish to make.

**Implementation of the 1974 Recommendation concerning Education for International Understanding, Cooperation and Peace and Education relating to Human Rights and Fundamental Freedoms (192 EX/20 Part III)**

20. The Director of the Division of Education for Peace and Sustainable Development of the Education Sector, representative of the Director-General, presented the document 192 EX/20 Part III. She explained the modalities of the 5th Consultation covering the period of 2009-2012 and informed that 55 national reports had been received. The Secretariat also acknowledged with appreciation the report submitted by Bolivia (Plurinational State of) received after the deadline. She highlighted some of the key findings: there have been steady progresses in Member States' development of constitutional, legal, policy and/or administrative frameworks while there is a continuing gap between policy and practice; Member States are trying to translate the principal values of the 1974 Recommendation into specific competencies so as to emphasize the learner's development of the necessary attitudes and skills. In relation to this, Member States place a high importance on the need of assessing the impact of teaching and learning of human rights values; violence and bullying in educational settings are reported as the major concern of many Member States; and policy leadership remains to be a major challenge in promoting human rights values.

21. After examining this item, the Committee members decided to recommend the following draft decision contained in paragraph 21 of document 192 EX/20 Part III without any amendments:

The Executive Board,

1. Recalling 34 C/Resolution 87, 177 EX/Decision 35 (I) and 184 EX/Decision 20,
2. Having examined document 192 EX/20 Part III and the report of the Committee on Conventions and Recommendations thereon (192 EX/45),
3. Notes with appreciation the replies of the 55 Member States which submitted their reports within the Fifth Consultation on the Implementation of the 1974 Recommendation concerning Education for International Understanding, Cooperation and Peace and Education relating to Human Rights and Fundamental Freedoms;
4. Takes note of the concrete application of the 1974 Recommendation by Member States to further promote a culture of peace and human rights in and through education;
5. Requests the Director-General to ensure that the results of the Fifth Consultation be shared with the Office of United Nations High Commissioner for Human Rights as UNESCO's contribution to the monitoring of the second phase of the World Programme for Human Rights Education;
6. Invites the Director-General to share the results of the Fifth Consultation with other specialized agencies through the International Contact Group for Citizenship and Human Rights Education;
7. Requests the Director-General to make the national reports available online through the newly established global database on the right to education and further requests the Director-General to transmit document 192 EX/20 Part III to the General Conference at its 37th session, together with the Executive Board's comments and any observations or comments that the Director-General may wish to make.

**Application of the Recommendation concerning the Status of Teachers (1966)  
and the Recommendation concerning the Status of Higher-Education Teaching  
Personnel (1997) CEART**  
(192 EX/20 Part IV)

22. The Director of the Division for Teacher Development and Higher Education, representative of the Director-General, presented document 192 EX/20 Part IV. He provided a background of the mandate of the Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART), which meets every three years to review the extent to which Member States have applied the 1966 and the 1997 Recommendations on teachers and teaching personnel. The CEART produces a full report and an interim report, and these are presented to the Executive Board. The full report presented to the CR pertains to the 11th session of the CEART, which was held at the ILO Headquarters in Geneva from 8 to 12 October 2012. He then briefly described the contents of the report, namely the major issues affecting the current status of teaching personnel worldwide within the framework of the Recommendations including escalating violence in education, the role of social dialogue in a climate of austerity and public services cutbacks, academic freedom in the context of changes in higher education, the continuing shortage of teachers in many countries, and how conditions of employment can be improved to attract highly qualified people to the teaching profession. He also noted the work of the Committee on Allegations, which received a new case from Portugal, and continued its review of cases from Australia, Denmark, Ethiopia and Japan.

23. One member of the Committee expressed his country's appreciation of the CEART report as it deals with salient issues which are of crucial relevance to UNESCO and society as a whole. He stated that the report, which is published in several languages, deals with one of the most important work of UNESCO, and should be disseminated widely, promoted for instance, to the press. He also noted the increase in contractual teachers, the diminishing number of tenured faculty, the privatization of schools and waning public education. He reinstated his suggestion of promoting and publishing the CEART document for a wider reach.

24. The representative of the Director-General thanked the member of the Committee for his positive remarks and acknowledged the challenges involved in improving the status and working conditions of teachers. He recognized the need to create awareness of the status of teachers and their working conditions. He cited World Teachers Day, which will be celebrated exceptionally this year on the 4th of October, as an opportunity to reach out to governments, partners, journalists and the wider public and invited those present to participate in this event. He then assured the Committee that UNESCO would continue to undertake its ambitious goal of reaching out to a wider public.

25. The Chairperson of the Committee then invited an observer from Portugal to take the floor upon its request. The observer made the following statement before the Committee:

"The Ministry of Education and Science always had with the National Teachers' Federation of Portugal (FENPROF), and with other representatives of teachers' organizations, a frequent, full and transparent relationship, namely as far as teachers' working conditions are concerned. Since the new Government is in office (June 2011), FENPROF was invited to participate in 38 meetings on issues dealing, among other, with teachers' evaluation; public recruitment and selection; career and working conditions and continuous training. As you know, the Portuguese Government had to adopt several budgetary measures to respect its external commitments to reduce the deficit and achieve a balanced national budget. As such, austerity laws had to be adopted by the Parliament, regarding Budget and Expense. Some of these laws relate to the freezing of career progression and salary reductions for all civil servants in public administration, including teachers. These measures are Parliament laws that offer a negotiation procedure, which gives all civil servants representative associations – including the General Confederation of Portuguese Workers (CGTP) – the opportunity to participate, discuss and negotiate these laws before they are voted by the Parliament. CGTP

is a confederation of trade union federations, where FENPROF has its seat. According to the procedures referred above and to other Portuguese Parliament rules, all civil servants' representative associations also have the opportunity to request formal meetings with the Parliament and so did CGTP, where FENPROF, we repeat, is included. Regarding other laws referred to by FENPROF, all of them were dully negotiated with the Ministry of Education and Science. The school calendar, for instance. Despite the fact that such theme does not imply negotiation meetings, FENPROF was invited to participate in that discussion. Another example: the curriculum organization. This is not a theme for negotiation as it is of a scientific and pedagogical nature. However, it was broadly discussed through a public forum, largely participated, including by teachers' unions. Lastly: working conditions. This is an issue included in the Teachers' Working Conditions Law, which was negotiated with all teachers' trade unions, including FENPROF, naturally. Regarding overtime working hours, in Portugal civil servants are not under a regime of discrimination. Therefore, teachers are treated under the same rules as other civil servants. As such, applicable laws were not negotiated within the Ministry of Education and Science but within the Ministry of Public Administration. CGTP and FENPROF were represented in these negotiations. Finally, let me ensure UNESCO that the Portuguese Government and the Ministry of Education and Science are doing an enormous effort to ensure the improvement of teachers' working conditions, in order to maintain an educational system of excellence as the one we have in Portugal."

26. The Committee decided to recommend the following draft decision contained in paragraph 6 of document 192 EX/20 Part IV without any amendments:

The Executive Board,

1. Recalling 154 EX/Decision 4.4, 176 EX/Decision 32, 185 EX/Decision 23 (III) and 190 EX/Decision 24 (II),
2. Having examined document 192 EX/20 part IV and the report of the Committee on Conventions and Recommendations thereon (192 EX/45),
3. Appreciating the work of the Joint Committee in stimulating action to promote greater awareness and wider application of the two Recommendations concerning the status of teaching personnel,
4. Takes note of the report of the Eleventh Session of the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART/11/2012/9) including its Part II A, B, and C relating to allegations on the non-observance of certain provisions of the ILO/UNESCO Recommendation (1966) or of the UNESCO Recommendation (1997) in Australia, Denmark, Ethiopia, Japan and Portugal;
5. Invites the Director-General to assist the Joint Committee in carrying out its next cycle of work and report on its work to the Executive Board in 2016;
6. Requests the Director-General to communicate the report of the Joint Committee together with the observations of the Executive Board, if any, to Member States and their National Commissions, international teachers' organizations and other relevant international organizations having relations with UNESCO, inviting their consideration and comments on the policy recommendations of the CEART that concern them and encouraging them to continue to apply all provisions of both normative instruments, as well as to take the necessary follow-up action as recommended in the report.



**Item 21 Protocol instituting a Conciliation and Good Offices Commission to be Responsible for seeking the Settlement of any Disputes which may arise between States Parties to the Convention against Discrimination in Education: nominations and report of the Committee on Conventions and Recommendations thereon (192 EX/21)**

27. After recalling his earlier statement on the malfunctioning of the Conciliation and Good Offices Commission (paragraph 18 of this report), a member of the Committee said that the fact that no nomination had been received was basically because the Commission had never been called upon to make use of its good offices, or to perform its conciliation duties. Nonetheless, despite the lack of response to the appeal for nominations launched by the Director-General to the States Parties to the 1962 Protocol, as well as for proposals to improve the Commission's functioning, he said that the Director-General should invite once more those same States Parties to submit nominations before the 37th session of the General Conference.

28. Another member of the Committee said that the Director-General should transmit any new nominations that she might receive, not before the opening of the 37th session of the General Conference, but before the opening of the vote that would take place at that session, so as to be able to take advantage of last-minute nominations that might be submitted in the first days of the General Conference.

29. At the end of the debate, the Committee members decided to recommend the following draft decision to the Executive Board:

The Executive Board,

1. Recalling the provisions of Article 3 of the Protocol instituting a Conciliation and Good Offices Commission to be responsible for seeking the settlement of any disputes which may arise between States Parties to the Convention against Discrimination in Education,
2. Also recalling the provisions of Article 7 of the Protocol whereby, subject to the provisions of Article 6, members of the Commission shall remain in office until the election of their successor,
3. Having taken note of document 192 EX/21 and of the fact that the States Parties to the Protocol have not yet submitted nominations for the election of six members of the Commission,
4. Requests the Director-General to invite once more the States Parties to the Protocol to submit nominations, and to transmit to the General Conference any nominations that she may receive before the opening of the vote that will take place during its 37th session.