

**Hundred and seventieth Session**

170 EX/39  
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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 28 September and 1 October 2004 with Mr Davidson Hepburn (Bahamas) in the Chair. It met on 11 October 2004 in order to adopt this report. Pursuant to Rule 16.2 of the Rules of Procedure of the Executive Board, the Committee on Conventions and Recommendations elected Mr José Israel Vargas (Brazil), as its temporary Chairman. The Committee examined the following agenda items.

**Item 6.2 Examination of the methods of work of the Committee on Conventions and Recommendations, and report of the Committee thereon (170 EX/15)**

2. Introducing the item, the representative of the Director-General reminded the Committee of the background of the CR and its dual mandate, that is, to consider all questions relating to the implementation of UNESCO's standard-setting instruments that are entrusted to it by the Executive Board, including Member States' reports on the implementation of conventions and recommendations (first aspect of its terms of reference) and to examine communications relating to cases and questions concerning the exercise of human rights in UNESCO's fields of competence (second aspect of its terms of reference). The representative of the Director-General then introduced document 170 EX/15 which had been drawn up to help members of the Committee to respond to the concerns expressed at previous sessions of the CR and the Executive Board.

3. Following a lengthy exchange of views, the members of the Committee declared themselves unanimously to be in favour of maintaining this subsidiary organ of the Executive Board, while noting an imbalance in the exercise of the dual mandate of the Committee to the advantage of the second aspect of the terms of reference.

4. With regard to the first aspect of the terms of reference, most of the Committee members stated that it was necessary to strengthen the Committee's initial task of considering periodic reports received from Member States on the implementation of UNESCO's standard-setting instruments, especially since, by virtue of new Article 18, paragraph 1, of the Rules of Procedure governing recommendations to Member States and international conventions covered by the terms of Article IV, paragraph 4, of the Constitution (hereinafter "the Rules"), as amended by the General Conference at its 32nd session (32 C/Resolution 77), consideration of such reports is now entrusted to the Committee.

5. The representative of the Director-General specified that Article 18 of the Rules applied to all the conventions and recommendations adopted by UNESCO, with the exception of those conventions which provided for monitoring by a specific body, such as the World Heritage Committee in the framework of the 1972 Convention for the Protection of the World Cultural and Natural Heritage. The Committee should, therefore, consider reports on the following conventions:

- Agreement on the Importation of Educational, Scientific and Cultural Materials, with Annexes A to E and Protocol annexed (Florence, 17 June 1950) and the Protocol to the Agreement on the Importation of Educational, Scientific and Cultural Materials, with Annexes A to H (Nairobi, 26 November 1976);
- Convention concerning the International Exchange of Publications (Paris, 3 December 1958);
- Convention concerning the Exchange of Official Publications and Government Documents between States (Paris, 3 December 1958);
- Convention against Discrimination in Education (Paris, 14 December 1960);
- Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (Paris, 14 November 1970); and
- Convention on Technical and Vocational Education (Paris, 10 November 1989).

6. With regard to recommendations, the CR now considers reports on four recommendations, namely, the 1966 Recommendation concerning the Status of Teachers; the 2001 Revised Recommendation concerning Technical and Vocational Education; the 1974 Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms (included since 1985 in the permanent system of reporting on education for peace, human rights, democracy, international understanding and tolerance), and the 1976 Recommendation on the Development of Adult Education. The Committee could look into the other recommendations adopted by the General Conference and make proposals concerning the consideration of reports thereon.

7. In this connection, the Committee members asked the Secretariat to produce a list of conventions and recommendations which would fall within the Committee's purview (along the lines of Annex C of document 164 EX/23), together with the status of ratifications of the conventions concerned so that the Committee has all relevant information to hand before proposing any measures to revitalize the first aspect of its terms of reference.

8. With a view to strengthening the first aspect of the Committee's terms of reference, the Committee members suggested some of the measures that might be adopted:

- heighten awareness among Member States of UNESCO's different standard-setting instruments and invite them to become parties to international conventions adopted under the Organization's auspices;
- remind Member States that they are required to fulfil their legal obligations under the Constitution of UNESCO with regard to reports on the follow-up to conventions and recommendations;

- improve the guidelines submitted to Member States: preparation of draft questionnaires in close collaboration with the UNESCO Institute for Statistics (UIS) and social science specialists, drawing up of multiple choice questionnaires, thereby facilitating the evaluation of the data provided;
- establish specific procedures for consideration by the CR of reports submitted by Member States, such as the monitoring procedures for the 1972 Convention for the Protection of the World Cultural and Natural Heritage;
- integrate the monitoring role of the CR in future standard-setting instruments adopted by the Organization;
- accord additional working days (or a third meeting per year) to the Committee so that it may engage in an in-depth examination of the reports submitted by Member States.

9. With regard to the second aspect of the terms of reference, most of the Committee members welcomed the positive results of the CR since its establishment over 26 years previously and considered that the terms of 104 EX/Decision 3.3 of the Executive Board, in particular the criteria for the admissibility of a communication, remained satisfactory, although there was room for improvement.

10. Several members pointed out that the fact that a case was being considered by another agency in the United Nations system did not prevent the CR from considering it as well, because of the specific features of the procedure under 104 EX/Decision 3.3 as against similar procedures in the United Nations system, among them its individual and non-judicial nature, the search for an amicable solution in a spirit of dialogue, conciliation and mutual understanding, and confidentiality.

11. Other members, however, considered that, on the contrary, the Committee should no longer consider communications, but leave them to other United Nations human rights bodies so as to avoid any duplication of work. Other members of the Committee contended that that aspect of the terms of reference formed part of the purposes and functions of the Organization as set out in Article I of its Constitution, which stipulates that “the purpose of the Organization is to contribute to peace and security by promoting collaboration among the nations through education, science and culture in order to further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms which are affirmed for the peoples of the world ...”.

12. Some members proposed measures for improvement and suggested examining in particular the following issues:

- improving the prior selection of communications;
- considering communications that fall only within UNESCO’s fields of competence after having assessed the admissibility criteria *rationae materiae* and *rationae personae*;
- recalling that, when the Committee declared a communication to be admissible, that in no way implied a “condemnation” of the government concerned;
- intensifying the Committee’s cooperation with other bodies of the United Nations system: organization of coordination meetings (along the lines of the Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the Monitoring of the Right to Education), exchanges of information on communications, and so on;

- raising public awareness of the Committee’s work by publishing statistics of the Committee’s results, while continuing to respect the confidential nature of the procedure under 104 EX/Decision 3.3;
- increasing the effective role of the Director-General of UNESCO in connection with the procedure under 104 EX/Decision 3.3, and that of the Chairman of the Committee: visits of good offices to the States concerned by communications.

13. At the conclusion of the discussions, several members considered that it would be worthwhile setting up an intersessional working group composed of two representatives of each electoral group of the Executive Board in order to examine the question further. As the proposal did not meet with consensus, the Committee decided to resume the examination of its methods of work at its following session, focusing particularly on the points identified during the discussions.

14. The Committee member who had made the formal proposal to set up a working group agreed to withdraw the proposal, expressing regret that the Committee was not willing to continue the examination of its methods of work in a restricted group which would have met before the following session of the Board.

15. Having examined the item, the Committee recommends 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. Having examined document 170 EX/15,
4. Notes with appreciation the work undertaken by the Committee to examine its methods of work and the progress realized so far;
5. Calls upon the Committee to continue the examination of its methods of work with particular emphasis on the following questions:
  - (a) Concerning the first aspect of its terms of reference:
    - (i) strengthening of the first mandate of the Committee relating to the implementation of UNESCO’s standard-setting instruments;
    - (ii) establishment of specific procedures for reports by Member States on conventions and recommendations;
    - (iii) organization of work;
    - (iv) statistics;

- (b) Concerning the second aspect of its terms of reference:
    - (i) selection of communications;
    - (ii) application of criteria for admissibility;
    - (iii) cooperation between the Committee and the other United Nations human rights bodies;
    - (iv) statistics on the procedure;
    - (v) role of the Director-General and the Chairman of the Committee within the context of the 104 EX/3.3 procedure;
6. Invites the Committee to report to it at its 171st session on the outcome of its deliberations on these questions, taking account of the debate by the Committee at its 166th and 170th sessions;
  7. Decides to grant the Committee one additional working day for that purpose.

**Item 6.3 Organization of the seventh consultation of Member States on the implementation of the Convention and the Recommendation against Discrimination in Education (1960) (170 EX/16)**

16. This agenda item was introduced by the representative of the Director-General, who highlighted major contextual elements of document 170 EX/16, including follow-up to 165 EX/Decision 6.2 taken by the Executive Board at its 165th session in October 2002. The debate on this item, which was very rich, had close correlation with the debate on agenda item 6.2: “Examination of the Methods of Work of the Committee on Conventions and Recommendations and the Report of the Committee thereon” (170 EX/15). The right to education featured very prominently in the interventions by members of the CR.

17. The debate centred around the importance of the application of the fundamental principles of non-discrimination and equality of educational opportunities, as enshrined in UNESCO’s Constitution and expressed in the Convention. Member States’ obligations under Article VIII of UNESCO’s Constitution were recalled. There was a need to promote normative action in line with the international legal obligation of the States Parties to the Convention against Discrimination in Education as well as political and moral commitments of Member States for the implementation of the Recommendation against Discrimination in Education.

18. Members of the CR expressed their concern as regards the low level of ratification of the Convention. They accordingly underlined the need for awareness-raising and a ratification campaign, inviting the Director-General to encourage Member States to adhere to the Convention. Given the importance of the normative action at the national level, the Convention must be given wide dissemination, with the support of National Commissions. It would be useful to organize regional-level seminars and workshops for promoting such normative action.

19. The debate focused on the normative dimensions of Education for All (EFA). In line with the discussions leading to 165 EX/Decision 6.2, the monitoring of the implementation of conventions and recommendations in the field of education should respond to EFA as UNESCO’s priority. UNESCO’s responsibility for EFA was the fundamental issue. The Convention against Discrimination in Education was a key pillar in the EFA process, and needed to be recognized as such. The Organization should be more proactive with regard to normative action in this respect.

While monitoring the implementation of the Convention, reaching the unreached, and making education accessible to the marginalized and the poor was of critical importance. Such action is crucial in view of the stipulations in UNESCO's Medium-Term Strategy for 2002-2007 (32 C/4, para. 62) relating to the implementation of the Convention. The debate also covered the development/modernization of national legislation as part of the EFA process, and technical assistance furnished by UNESCO to Member States, so that the fundamental principles reflected in the Convention are incorporated in the national legal system.

20. During the debate, matters related to complementarity with the United Nations Committee on Economic, Social and Cultural Rights (CESCR) and the work of the Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the Monitoring of the Right to Education were dwelt upon. The developments regarding reciprocal exchange of information and documents between CESCR and UNESCO with a view to avoiding overlapping and to promoting coherent mechanisms in reporting were noted. At the outset, the Chairman of the CR mentioned the Final Report on the Second Meeting of the Joint Expert Group, organized in May 2004, which was made available as an information document to the members of the CR. The questions related to the preparation of the Guidelines were covered in the discussion by the experts on the core issues.

21. The draft Guidelines prepared by the Secretariat as annexed to document 170 EX/16 were discussed. Work done by the Secretariat was appreciated. Members of the CR suggested that greater emphasis should be put on reaching the unreached in national-level efforts and that the Guidelines deserve to be strengthened. The Guidelines should also request Member States to furnish information as regards quantitative indicators on progressive realization of the right to education. The Guidelines should accordingly be developed further.

22. Questions related to the periodicity of consultation and examination of analytical reports by the CR figured in the discussion. These have a bearing on the working methods of the CR. As regards the preparation of the reports for the seventh consultation, an important consideration related to the time frame necessary for Member States for the preparation and presentation of such reports.

23. Concluding the debate, the Chairman of the CR underlined the need for action. He thanked the representative of the Director-General for responding to the queries and for providing necessary information and clarifications during the discussion.

24. As a result of the debate, revisions were proposed in the draft decision (para. 12 of document 170 EX/16).

25. Having examined the item, the Committee recommends that the Executive Board adopt the following draft decision:

The Executive Board,

1. Recalling 30 C/Resolution 15 and 165 EX/Decision 6.2,
2. Having examined document 170 EX/16,
3. Notes with appreciation 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 contained in Annex I of document 170 EX/16;

4. Requests that the Guidelines be further developed in the light of the debate by the Committee at its 170th session for presentation to the Executive Board at its 171st session;
5. 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;
6. Bearing in mind Member States’ obligations under Article VIII of UNESCO’s Constitution and recognizing the Convention against Discrimination in Education as a key pillar in the Education for All (EFA) process,
7. Invites the Director-General to encourage Member States to adhere to the Convention;
8. Recommends that for technical as well as substantive reasons the seventh consultation be organized in such a way that the analytical report can be presented to the General Conference at its 34th session in 2007;
9. Requests the Director-General to report to it at its autumn session in 2006 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.