

Hundred and sixty-seventh Session

167 EX/54

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**REPORT BY THE COMMITTEE ON
CONVENTIONS AND RECOMMENDATIONS**

1. The Committee on Conventions and Recommendations held two public working meetings on 11 and 12 September 2003, chaired by Mr Louis Peter Van Vliet, representing the Netherlands. It met on 22 September 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 Abdelwahab Bouhdiba, the representative of Tunisia, Temporary Chairperson. The Committee considered the following agenda items:

Item 5.2 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 (167 EX/17 and Add.) (167 EX/17 and Add. Rev.)

2. The Committee took note of the fact that five countries (Cote d'Ivoire, France, Germany, Italy and Uganda) had nominated candidates for the 10 seats on the Commission falling vacant in 2003.

3. The Committee recommended that the Executive Board adopt the following draft decision:

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. Having taken note of the list of persons nominated by the States Parties to the Protocol for the purpose of the election of ten members of the Commission communicated to it by the Director-General pursuant to Article 3, paragraph 2, of the said Protocol (167 EX/17 and Add. Rev.),
3. Transmits this list to the General Conference at its 32nd session;
4. Requests the Director-General to add to this list any other candidatures which he may receive before the opening of the 32nd session of the General Conference.

Item 5.5 Reports of Member States on measures they have adopted to implement the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970) (167 EX/20 and Addenda)

4. Following a presentation by the Secretariat, the Committee had in-depth discussions with regard to the periodicity, quantity and content of the reports submitted. The discussion first focused on the clear legal obligation of States Parties to the 1970 Convention to submit periodic reports to the General Conference pursuant to Article 16 of the Convention. The purpose of reporting was also re-emphasized, namely to encourage States Parties to remain diligent in their implementation of this important Convention and keep the fight against illicit trafficking in the forefront of national as well as regional and international initiatives, and also to have States themselves and UNESCO assess the adequacy and effectiveness of national measures undertaken so that areas of weakness may be identified and appropriate adjustments/improvements made.

5. The Committee expressed its dissatisfaction that, of the 100 States Parties to the Convention, only 24 had submitted reports. It was also noted that eight years had elapsed since the last request for reports. Several members of the Committee thought that a shorter interval for reporting, as 4 or 6 years, should be formally designated by the General Conference. Members acknowledged the difficulty for States to gather information from various ministries and institutions and proposed simplifying the reporting process by having the Secretariat provide a questionnaire and a report structure delineating specific categories to be covered. The Secretariat reported that, generally, the content and detail of the reports received were satisfactory.

6. More general suggestions by Members included giving more visibility to the reports, performing a comparative analysis of various national measures undertaken to fight illicit trafficking, and convening an international meeting to assess the use, effectiveness and efficiency of the 1970 Convention. Members also expressed their wish to see more promotion of the 1970 Convention by UNESCO and, in particular, an increase in the number of States Parties to the 1970 Convention. The Committee also sought clarification on the complementary nature of the 1995 UNIDROIT Convention, which the Secretariat provided.

7. The Committee recommended to the Executive Board that it adopt the following draft decision:

The Executive Board,

1. Having examined document 167 EX/20 and addenda, which contains a summary of the reports of States on the action taken by them to implement the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (hereafter “1970 Convention”),
2. Noting that of the 100 States Parties to the 1970 Convention only 24 submitted reports on the action they have taken to implement the Convention in response to 28 C/RES/3.11,
3. Further noting that seven Member States not yet Parties to the 1970 Convention provided information on their intention to ratify the Convention,
4. Having found that the number of reports by States Parties to the 1970 Convention is inadequate in view of the obligation of each State Party to report under Article 16 of the Convention,

5. Having also found that the reports submitted generally reflect serious implementation of the terms of the 1970 Convention but demonstrate areas where improvement is needed,
6. Considering that action against illicit traffic in cultural property urgently needs to be strengthened at the national as well as international levels,
7. Hereby decides to recommend to the General Conference:
 - (a) To invite the States which are not yet Parties to the 1970 Convention as well as to the 1995 UNIDROIT Convention which complements the 1970 Convention, to accede to them;
 - (b) To remind States Parties of their obligations under the 1970 Convention for an effective implementation, and in particular their obligation to report under its Article 16;
 - (c) To set the periodicity for reporting at six-year intervals with reference to Article 16 of the Convention under which the General Conference determines the dates of reporting;
 - (d) To request the Secretariat to facilitate the work of States Parties in preparing their reports by providing them with a questionnaire and appropriate categories of information and measures to be included in their reports with reference to Article 16 of the Convention under which the General Conference determines the manner of reporting;
 - (e) To emphasize that the content of such reports be as detailed as possible to enable an accurate understanding and evaluation of the implementation of the Convention;
 - (f) To encourage States Parties to the 1970 Convention to assess the adequacy and effectiveness of national measures undertaken to implement the Convention so that areas of weakness may be identified and appropriate adjustments/improvements made, and
 - (g) To invite Member States and the Director-General to pursue activities aimed at strengthening regional and worldwide cooperation particularly by concluding agreements and encouraging an international system to facilitate the restitution of stolen or illicitly exported cultural property.

Item 5.8 Report on the First Meeting of the Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the monitoring of the right to education (167 EX/CR.2)

8. Introducing this agenda item, the Chairman of the Committee presented the Report on the first meeting of the Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the Monitoring of the Right to Education. Characterizing the Report as being extremely useful, he invited Members States to come up with suggestions for providing guidance for the future work of the Joint Expert Group so that in monitoring tasks, CR and CESCR would focus on the right to education with greater complementarity.

9. In the ensuing debate, one of the Members of the Joint Expert Group representing CR highlighted the constructive mood in which its first meeting took place. It was stated that the Report contains a working programme and elements such as developing indicators for monitoring the

progress in realising the right to education at all levels; UNESCO's role as a follow-up to the Concluding Observations adopted by CESCR after examining the country reports; and technical assistance to Member States for developing/modernizing national legislation, pursuant to the State obligations under the Convention against Discrimination in Education (1960) and the provisions in the International Covenant on Economic, Social and Cultural Rights (ICESCR) relating to the right to education.

10. The Report was commended by Members of the Committee who in their interventions endorsed the Recommendations that it contains. They underlined the need for encouraging and supporting the Joint Expert Group in continuing its work. It was stated that the Joint Expert Group has given a sense of horizon and need for integration and coordination of the work of CR and CESCR. The significance of Recommendations in paragraph 11 of the Report was especially pointed out for UNESCO to spearhead follow-up work. In the context of EFA as UNESCO's priority, several Member States stated how crucial it was to advance the work being done by the Organization for realising the right to education so that it is enjoyed by all as a fundamental human right.

11. The Secretariat provided elements of information pertinent to the debate as regards collaboration and complementarity in the work of UNESCO and CESCR in the field of the right to education.

12. The Committee recommended to the Executive Board that it adopt the following draft decision:

The Executive Board,

1. Recalling its decision 162 EX/5.4 relating to the creation of Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the monitoring of the right to education,
2. Also recalling its decision 165 EX/6.2,
3. Having examined document 167 EX/CR.2,
4. Compliments the Joint Expert Group for the excellent quality of its work done at its first meeting;
5. Expresses its appreciation of the results of this meeting and requests the Joint Expert Group to continue its work;
6. Requests the Joint Expert Group to give priority to the following issues:
 - (a) Strengthening the foundations of the right to education in national legal systems based on international legal obligations;
 - (b) Suggestions and possible options to integrate the reporting obligations of the States Parties of the Convention against Discrimination in Education and those of the States Parties to the Covenant on Economic, Social and Cultural Rights concerning the Articles 13 and 14;
 - (c) Definition of a set of indicators for the monitoring of the right to education.