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## REPORT ON THE SEVENTH MEETING OF THE JOINT EXPERT GROUP UNESCO (CR)/ECOSOC (CESCR) ON THE MONITORING OF THE RIGHT TO EDUCATION

### SUMMARY

This document is a Report by the Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the Monitoring of the Right to Education on its seventh meeting. It presents a summary of discussions on the follow-up to the outcome of the seventh consultation of Member States on the measures taken for the implementation of the Convention and the Recommendation against Discrimination in Education, with emphasis on the equality of opportunities in education.

Taking into account the suggestions and 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.

Decision proposed: paragraph 20.

1. The Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the Monitoring of the Right to Education<sup>1</sup> held its seventh meeting at UNESCO Headquarters on Friday, 7 December 2007. Mr Philippe Texier, Chairperson of the United Nations Committee on Economic, Social and Cultural Rights (CESCR), who replaced Mr Eibe Riedel, member of the Joint Expert Group from CESCR; Ms Virginia Bonoan-Dandan, Member of CESCR; and members of UNESCO's Committee on Conventions and Recommendations (CR) – Mr Olabiyi Babalola Joseph Yaï, Permanent Delegate of Benin to UNESCO (assisted by Ms Françoise Medegan) and Chairman of UNESCO's Executive Board; and Mr José Duarte Ramalho Ortigao, Permanent Delegate of Portugal to UNESCO (assisted by Ms Monica Moutinho) – participated in the meeting.

<sup>1</sup> The Joint Expert Group, established by Decision 5.4 adopted by UNESCO's Executive Board at its 162nd session in October 2001, is composed of four members – two members representing the CESCR and two members representing the CR, and has a broad mandate of monitoring the right to education in all its dimensions.

2. Welcoming the experts, Mr Nicholas Burnett, Assistant Director-General for Education, underlined the significance of the work accomplished by the Joint Expert Group as an institutional framework for the realization of the right to education in the context of UNESCO's principal role and responsibility in this field in the constellation of the United Nations system. He expressed his personal commitment to the right to education, and stressed the importance of giving greater visibility to it as a priority area. He stated that the theme of the seventh meeting on equality of educational opportunities was highly significant as UNESCO's constitutional mandate of ensuring "full and equal educational opportunities for all" is even more pertinent today.

3. The main objective of the meeting was to discuss questions relating to the follow-up to the outcome of the Seventh Consultation of Member States on the measures taken for implementation of UNESCO's Convention and the Recommendation against Discrimination in Education and to 177 EX/Decision 36 as well as to 34 C/Resolution 13 and to engage both UNESCO and the CESCR in giving impetus to their common endeavour for promoting the fundamental principle of equality of educational opportunities. Mr Kishore Singh, secretary of the Joint Expert Group, presented the documents prepared for the meeting. A concept note prepared by the Secretariat of the Joint Expert Group served as the basis for discussions (Annex).

### **Promoting non-discrimination and equality of educational opportunities in education *in law and in fact***

4. The Joint Expert Group underlined the centrality of the principles of non-discrimination and of equality of opportunities in education, reflected in the Convention and the Recommendation. It recognized that, as the results of the Seventh Consultation showed, ensuring *de facto* equality of educational opportunities was a continuing challenge. It was, therefore, crucial to monitor the right to education more effectively, promote equitable and universal access to education for all, and encourage Member States to adopt effective measures to that end, as part of the EFA process. Ms Ndong Jatta, Director, Division of Basic Education, UNESCO, emphasized the critical importance of giving effect to national legislation in monitoring the implementation of the Convention, with EFA as a leverage. Moreover, she underlined the need to work as one United Nations.

5. The experts reiterated the need for widely disseminating the Convention and the Recommendation against Discrimination in Education which have been recognized by UNESCO's Executive Board as the key pillar of EFA. They suggested that promotional measures were highly necessary in order to eliminate existing inequities and disparities in education. The normative action should be intensified accordingly. Research and studies on the analysis of constitutional provisions on the right to education, in general, and on the equality of educational opportunities in particular, conducted by UNESCO's Secretariat, must be publicized.

6. The experts were provided with the Global Monitoring Report, 2008, which had just been launched, and which provides evidence-based assessment of the progress as well as limitations in advancing the EFA agenda.

### **Reporting procedures and monitoring mechanisms**

7. In view of the continuing challenge Member States face for ensuring non-discrimination and equality of educational opportunities in education *in law and in fact*, the Joint Expert Group examined the possibilities of enhanced collaboration between UNESCO and the CESCR. During the meeting, reports received from Member States on the Seventh Consultation were circulated among the members of the Joint Expert Group. Consideration was given to the report on the Meeting of the States Parties to the Convention against Discrimination in Education and other Member States (organized by UNESCO on the sidelines of the 34th session of the General Conference at UNESCO Headquarters on 25 October 2007).

After a discussion, it was suggested that:

*As in case of the United Nations human rights treaty bodies, it will be very useful if the reports received for the seventh consultation were put on UNESCO's website, so that Member States as well as other interested bodies can have the possibility of apprising themselves of the country specific status of the implementation of the Convention and the Recommendation, and Member States can draw upon their experiences for mutual benefit. This could also create competitive spirit among them for reporting. For this purpose, Member States must respond to UNESCO's request for communicating the reports in their electronic form.*

8. The experts discussed the importance of *practical examples* in promoting equality of educational opportunities. They recognized that several reports submitted to UNESCO for the seventh consultation were very rich in furnishing information as regards practical examples. Similarly, the reports submitted to the CESCR contain many practical examples. Based on such a wealth of existing information and material, it would be very useful to highlight such practical, concrete examples and disseminate them. This could be complemented by information provided in the Global Monitoring Reports in recent years.

Having considered a preliminary draft on such practical examples from the CESCR and from UNESCO, the experts recommended that:

*Drawing upon these materials, the practical examples could be presented according to a systematic framework in keeping with various dimensions of the right to education, while indicating the authenticity of sources. Such a document could be posted on a website, and could be disseminated as an informal publication.*

9. Taking an overview of the monitoring procedures and practices of the CESCR and of UNESCO, the experts exchanged views on various aspects – notably, reporting procedures and monitoring mechanisms of both UNESCO and the CESCR; the periodicity of reporting; guidelines and format for reporting; examination of reports, and follow-up action at country level, etc. It was noted that the reports to the CESCR are submitted according to the Guidelines and along a format for preparing the reports, whereas not all the reports submitted to UNESCO in line with the Guidelines (approved by the Executive Board for this purpose) are prepared along a format. Besides, the CESCR examines reports individually by way of a constructive dialogue with the States Parties to the International Covenant, whereas the CR examines only an analytical report prepared by the Secretariat on the basis of all country reports submitted to UNESCO. Mr Kishore Singh, secretary of the Joint Expert Group, and Mr Jakob Schneider, from the Secretariat of the CESCR, provided technical information and responded to queries all along the discussions.

10. The Joint Expert Group noted that despite the lack of full convergence in reporting procedures and approaches, there were many areas of common interest in the work of the CESCR and the CR. Reference was made to the revised Guidelines being prepared by the CESCR for reporting as well as the model guidelines for monitoring the implementation of UNESCO's Conventions (whose monitoring is entrusted to the CR), adopted by UNESCO's Executive Board (177 EX/Decision 35, Part II). Ms Béatrice Dupuy, Secretary of the CR, provided technical information. In developing these, the CR had given consideration to the harmonized guidelines developed for the United Nations human rights treaty bodies. The possibility of joint reporting to the CESCR and to UNESCO by States on the measures taken for the implementation of the right to education was evoked; it was pointed out that joint reporting was not easy even in the case of the United Nations human rights treaty bodies.

11. Given shared concerns and common interest, the Joint Expert Group recommended that:

*– It was important to take a holistic approach with a view to imparting further synergy in monitoring. States should be encouraged, while preparing reports, to integrate elements*

*which are common, as regards information they provide to the CESCR and to UNESCO in the field of the right to education. Such an approach would reduce State burden in reporting;*

- *As in the case of the United Nations human rights treaty bodies, UNESCO should ensure that reports submitted are prepared along a systematic format on the basis of simplified guidelines for reporting, in line with the framework given in document 177 EX/35, Part II.*

12. As regards improving reporting by countries, the experts were informed about the new procedures established by the Executive Board at its 177th session (177 EX/Decision 35, Part I) and suggested that the National Commissions and UNESCO's field offices must be involved more actively in this process. It was essential to strengthen activities aimed at providing technical support to Member States and their capacity-building.

### **Technical assistance to Member States in reporting**

13. The experts expressed their concern as regards the low reporting rate in UNESCO. Experience showed that countries, especially from the developing world, do not always have full capacity for preparing reports, and require technical assistance in their preparation. UNESCO field offices are not adequately equipped with necessary expertise for responding to their needs.

14. In this context, the experience of the CESCR in conducting technical assistance programmes and training seminars was presented. It was suggested that it will be highly important for UNESCO to develop such a practice, and to organize training seminars for the benefit of UNESCO's National Commissions and the Field Offices. This would contribute to capacity-building for the monitoring of the right to education.

### **Follow-up action at national level**

15. As regards follow-up to the decisions adopted by UNESCO's Executive Board and to the resolutions adopted by UNESCO's General Conference, the Joint Expert Group laid stress upon action at national level, to be promoted both by UNESCO and the CESCR. The Group also mentioned that follow up by UNESCO to the *Concluding Observations* adopted by the CESCR must be strengthened.

### **Greater visibility to the right to education**

16. The experts commended the personal commitment of the Assistant Director-General for Education to the right to education. They reiterated that the right to education indeed deserves much more attention at UNESCO. In this context, specificity of the work of the Joint Expert Group was underlined: it was a unique institutional framework in the United Nations system as regards collaboration between the treaty bodies. Greater visibility should be given to the very valuable work accomplished by the Joint Expert Group, and the possibility of creating a site on the Joint Expert Group on the CESCR website should be explored.

17. The Joint Expert Group recommended that:

*UNESCO must pay greater attention to the right to education which was central to its constitutional mission; and greater visibility should be given to the right to education and to the work by the Joint Expert Group.*

### **Future work**

18. The Joint Expert Group recognized that universalizing access to education without discrimination or exclusion, and reaching the unreached was a priority concern in monitoring the right to education. It therefore decided that its next meeting, to be organized during the 40th session of the CESCR in Geneva in May 2008, will be devoted to intensifying UNESCO's

Normative Action for Inclusive Approaches and Wider Access to Education, keeping in perspective the theme to be addressed by the forthcoming session of the International Conference on Education in November 2008.

19. The members of the Joint Expert Group expressed their thanks to Ambassador Yaï, outgoing member of the Joint Expert Group, and their appreciation of the very valuable contribution he made to its work.

**Proposed draft decision:**

20. The Executive Board may wish to adopt the following decision:

The Executive Board,

1. Recalling 162 EX/Decision 5.4, 171 EX/Decision 27 and 177 EX/Decision 37,
2. Having examined document 179 EX/24,
3. Expresses its appreciation of the work of the Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the Monitoring of the Right to Education and activities of the Secretariat of the Joint Expert Group for promoting the right to education;
4. Recognizes the key importance of the theme it addressed at its seventh meeting;
5. Invites Member States to promote action for ensuring non-discrimination and equality of educational opportunities in education *in law and in fact* so as to meet the continuing challenges they face to fulfil their respective commitments and international obligations in this field;
6. Requests the Director-General to consider suggestions and recommendations made by the Joint Expert Group as mentioned in document 179 EX/24 for follow up action;
7. Recognizes that greater emphasis needs to be placed on action at national level on universalizing access to quality education for all, with a focus on reaching the unreached; and to that end, requests UNESCO's secretariat to emphasize wider access to education for promoting the full realization of the right to education, especially in the context of the forthcoming International Conference on Education (November 2008);
8. Invites the Joint Expert Group to continue its consultations relating to monitoring the progressive achievement of the full exercise of the right to education with emphasis on normative bases of inclusive approaches to education;
9. Requests the Joint Expert Group to report to the Executive Board at its 181st session.

## ANNEX

### Concept Note

#### Prepared for the Seventh Meeting of the Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the Monitoring of the Right to Education

#### Background

1. UNESCO recently conducted the seventh consultation of Member States on the Implementation of the Convention and the Recommendation against Discrimination in Education (1960). The results of the consultation were submitted to UNESCO's Executive Board during its 177th session in September 2007 in the form of an analytical report, prepared on the basis of Reports from 51 Member States received by UNESCO's Secretariat (177 EX/36). The analysis focuses on: (i) elimination of discrimination in education; (ii) promotion of equality of educational opportunities; and (iii) ensuring universal access to education of good quality, as well as continuing challenges being faced by Member States. After examining the analytical report, the Executive Board adopted a decision (177 EX/Decision 36). The analytical report, along with this decision, was then submitted to UNESCO's General Conference during its recent 34th session.

2. Based upon the above-mentioned decision by the Executive Board, the General Conference adopted a resolution (34 C/Resolution 13), which recognizes the significance of applying the principle of equality of educational opportunities and the importance of the application of the Convention and the Recommendation against Discrimination in Education by Member States for the EFA process in order to promote the realization of the right to education; this resolution requests the Director-General to put special emphasis on and widely publicize the Convention and the Recommendation; and 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.

3. The fundamental principle of equal educational opportunities in education expressed in UNESCO's Convention against Discrimination in Education corresponds to EFA which is UNESCO's high priority. UNESCO and the CESCR both attach high significance to promoting equal educational opportunities *in law and in fact*. The core responsibility for achieving education for all without discrimination or exclusion devolves upon governments. This calls for creating and expanding educational opportunities and taking promotional measures in order to eliminate existing inequities and disparities in education. Review and analysis of constitutional provisions on the right to education, in general, and on equality of educational opportunities, in particular, is vital for universalizing access to education for all as a right. This is the main thrust of EFA and corresponds to UNESCO's constitutional mission of ensuring "full and equal educational opportunities for all".

4. During the Meeting of the States Parties to the Convention against Discrimination in Education and other Member States (organized by UNESCO on the sidelines of the 34th session of the General Conference at UNESCO Headquarters on 25 October 2007), a majority of the interventions highlighted the centrality of the principles of non-discrimination and equal educational opportunities, and hence, the continuing relevance of the Convention and the Recommendation for UNESCO's work in education. This is at the core of the EFA process, and a key issue in promoting measures for equitable and universal access to education, especially primary education.

5. In their interventions, Member States also emphasized the challenges facing their countries in striving to ensure equal educational opportunities and expressed interest in learning from the experiences of other countries, particularly as regards measures aiming to "reach the unreached" such as people living in rural and isolated areas, migrants and nomadic groups, and other vulnerable or excluded categories of the population.

## **Follow-up to the outcomes of the Seventh Consultation**

### **(a) Follow-up to the decision of the Executive Board (177 EX/Decision 36) and the resolution of the General Conference (34 C/Resolution 13)**

6. Actions to be taken as a follow-up to 34 C/Resolution 13 as well as 177 EX/Decision 36, mentioned above, are indeed wide-ranging. Three main areas deserve specific consideration in order to reflect over ways and means of:

- (i) applying the principle of equality of educational opportunities and the importance of the application of the Convention and the Recommendation against Discrimination in Education by Member States for the EFA process in order to promote the realization of the right to education;
- (ii) placing special emphasis on and widely publicizing the Convention and the Recommendation against Discrimination in Education; and
- (iii) intensifying 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.

### **(b) Sharing experiences among Member States in reporting**

7. Sharing experience in reporting among the States Parties to the Convention and other Member States regarding the seventh consultation would be useful. Making States' reports available for online consultation, possibly within a thematic framework, would enable them to share their experiences and benefit from the reports other Member States have submitted, and the state of implementation of the Convention and the Recommendation. States would need to give permission for their reports to be made available for online consultation. It is important that all Member States who have submitted reports also communicate electronic versions to the UNESCO Secretariat.

### **(c) Dissemination of practical examples**

8. In the reports submitted to UNESCO on the seventh consultation, several *practical examples* are available as regards the right to education and promotion of equality of educational opportunities. The practical examples with respect to the right to education that may be available in the reports submitted by the States Parties to the International Covenant on Economic, Social and Cultural Rights could enrich this. The follow-up action by the Secretariat to the seventh consultation could include measures aimed at the collection and the dissemination of *practical examples*, as also the current developments in national legislation and promotional measures/affirmative action for bringing about de facto equality of educational opportunities.

## **Collaboration between UNESCO and the CESC**

9. UNESCO is now sharing with the CESC the reports on the seventh consultation as part of ongoing collaboration, besides giving follow-up to the *Concluding Observations* in the field of the right to education adopted by the CESC.

10. The Joint Expert Group could suggest further actions as regards collaborative follow up between UNESCO and the CESC to the seventh consultation and to the decision of the Executive Board (177 EX/Decision 36) and the resolution of the General Conference (34 C/Resolution 13).

11. UNESCO's consultation process differed from the monitoring of the right to education by other United Nations treaties in so far as UNESCO does not provide direct feedback to each State

on its report. There is need to look into the relationship between the follow-up to the reports submitted by Member States for the seventh consultation and the follow up UNESCO gives to the *Concluding Observations* adopted by the CESCR in the field of the right to education.

### **National level action**

12. It will be important to encourage Member States to disseminate and publicize their report at national level. What are the best methods?

13. Since the number of reports (51) received by UNESCO for the seventh consultation is low, there is need to discuss ways of raising greater awareness about the Convention and reporting obligations by the national authorities at national level. How to promote UNESCO's normative action with a view to giving impetus to Member States in meeting their reporting obligations? It is also necessary to provide incentives to Member States in reporting and in follow-up action.

14. As a follow-up to the seventh consultation, greater emphasis needs to be placed on action at national level for creating equal educational opportunities for all, with a priority on reaching the unreached and on EFA. In this connection, it is noteworthy that an Expert Meeting on the Constitutional Right to Education and its Application, organized at UNESCO Headquarters on 5 and 6 October 2007, as a follow-up to the recommendation of the Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the Monitoring of the Right to Education, examined provisions on the right to education in constitution with emphasis on equal educational opportunities, as well as existing mechanisms for effective enforcement of the right to education and the role of the judiciary.

15. In reporting on and in applying the Convention and the Recommendation against Discrimination in Education, a key role devolves upon the National Commissions. An important area consists in strengthening their role for intensifying normative action for the realization of the right to education and equality of educational opportunities.