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Cultural Organization

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## COMMITTEE ON CONVENTIONS AND RECOMMENDATIONS

Item 23 of the provisional agenda

### INFORMATION DOCUMENT

#### SUMMARY

This information document\* comprises two parts:

- I. Procedures for the examination of reports from Member States on the implementation of UNESCO's standard-setting instruments
- II. Procedures for the examination of communications concerning the exercise of human rights in UNESCO's fields of competence

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\* At its 149th session (22 April-3 May 1996), the Executive Board decided that the Committee's procedural practice and the statistical information on its activities would be updated every two years, for the first session following the renewal of the membership of the Executive Board and of the Committee, in other words at the beginning of each biennium. This document updates and supplements document 174 EX/CR/2 and Corr.

## INTRODUCTION

### NATURE AND MEMBERSHIP OF THE CR

1. After the election of new Members of the Executive Board by the General Conference, the Board establishes from among its Members the permanent commissions and committees necessary to assist it in the execution of its tasks (Rule 16.1 of the Rules of Procedure of the Executive Board). The Committee on Conventions and Recommendations (CR) is one of the permanent subsidiary bodies of the Executive Board.<sup>1</sup> It is at present composed of 30 members from all the electoral groups.

2. The CR meets in closed session, in principle twice a year on the occasion of the sessions of the Executive Board. Extraordinary sessions may also be convened when the Executive Board considers it necessary.

### MANDATE OF THE CR

3. The mandate entrusted to the CR has two complementary components:

- (a) on the one hand, the Committee considers all questions entrusted to the Executive Board concerning the implementation of UNESCO's standard-setting instruments, in accordance with Article 18.1 of the Rules of Procedure concerning recommendations to Member States and international conventions; accordingly, the CR examines reports received from Member States (Part I);
- (b) on the other hand, the Committee examines communications relating to cases and questions concerning the exercise of human rights in UNESCO's fields of competence (Part II).

### I. PROCEDURES FOR THE EXAMINATION OF REPORTS FROM MEMBER STATES ON THE IMPLEMENTATION OF UNESCO'S STANDARD-SETTING INSTRUMENTS

4. In accordance with Article VIII of the Constitution, each Member State submits to the Organization, at such times and in such manner as may be determined by the General Conference, reports on the action taken on recommendations and conventions.

5. At its 15th session, the General Conference invited the Executive Board "to make appropriate arrangements for reports by Member States on the implementation of conventions or recommendations to be examined by a subsidiary organ of the Board..." (15 C/Resolution 12.2). The subsidiary organ in question is the CR.

6. At its 23rd session, the General Conference recommended to the Director-General that the draft questionnaires or forms sent to Member States with a view to the preparation of their reports should be submitted to the CR (resolution 29.1).

7. At its 32nd session (2003), the General Conference in 32 C/Resolution 77 decided to amend Part VI of the Rules of Procedure concerning recommendations to Member States and international conventions, which now provides that the Executive Board, and in particular the Committee on Conventions and Recommendations, shall examine the reports on conventions and recommendations that it requests from Member States, with the exception of standard-setting instruments that provide for a specific monitoring mechanism. The CR reports on its work in this respect to the General Conference, ultimate addressee of reports from Member States.

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<sup>1</sup> For more details on the background and development of this Committee, see the booklet "The Executive Board of UNESCO", 2008 edition.

8. At the request of the members of the Committee, a list of the conventions and recommendations that then fell within the competence of the Committee was drawn up by the Secretariat. The list comprises eight conventions (instead of the two in the previous system) and no less than 31 recommendations (instead of five formerly).<sup>2</sup>

9. At its 171st session (April 2005), the Board decided to strengthen and give fresh impetus to the first feature of the Committee's mandate concerning the implementation of the standard-setting instruments.

10. For the monitoring of the implementation of UNESCO conventions and recommendations for which no specific institutional mechanism is provided, the Executive Board adopted at its 177th session the following multi-stage procedure:

<b>SPECIFIC MULTI-STAGE PROCEDURE FOR THE MONITORING OF THE IMPLEMENTATION OF UNESCO CONVENTIONS AND RECOMMENDATIONS FOR WHICH NO SPECIFIC INSTITUTIONAL MECHANISM IS PROVIDED (177 EX/DECISION 35 I)</b>	
<b>Stage 1:</b>	<b>Frequency of submission of reports on the monitoring of the implementation of UNESCO conventions and recommendations for which no specific institutional mechanism is provided</b>  In accordance with the provisions of Article IV, paragraph 4, and Article VIII of the Constitution, reports shall be submitted every four years unless the General Conference, in the case of specific conventions or recommendations, decides otherwise.
<b>Stage 2:</b>	<b>Transmission of conventions and recommendations to Member States</b>  Pursuant to the provisions 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, while transmitting a certified copy of any convention or recommendation to Member States, the Director-General will formally remind them of their obligation to submit the convention or recommendation in question to their competent national authorities in accordance with Article IV, paragraph 4, of the Constitution, and will also draw their attention to the difference in the legal nature of conventions and recommendations.  The Secretariat will ensure that the standard-setting texts adopted by the General Conference are widely disseminated to Member States and the public.
<b>Stage 3:</b>	<b>Establishment of reports for monitoring the effective implementation of conventions and recommendations</b>  <b>(a) Consultations concerning conventions</b>  The Secretariat shall submit to the Executive Board its proposals concerning the modalities of consultation of Member States on any measures they have respectively adopted pursuant to Article IV, paragraphs 4 and 6, and Article VIII of the Constitution. To this effect, it shall prepare draft guidelines for the preparation of reports based on the framework guidelines adopted by the Executive Board, to which the Secretariat will add, in view of the wide variety of UNESCO's standard-setting instruments, specific questions on which additional information is sought in the light either of the conclusions of the previous consultation or of the information available.

<sup>2</sup> See 171 EX/21, Annex I, and 164 EX/23, Annex B.

The Executive Board shall entrust the examination of these proposals to its Committee on Conventions and Recommendations (CR).

After the guidelines have been approved by the Executive Board, the Director-General will invite the Member States to submit their report on the action taken on the convention, within a period of six months. Each Member State must submit such a report pursuant to Article 17, paragraph 1, 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.

**(b) Collection of information concerning recommendations**

The Secretariat will collect from Member States and National Commissions and from the various partners of the Organization such as non-governmental organizations (NGOs), information on the implementation of the recommendation in question.

This collection of information may be conducted on the basis of the model guidelines.

**(c) Preparation of reports**

With regard to the conventions, the Member States may prepare reports, with the cooperation and support of the National Commissions, in accordance with the model guidelines approved by the Board. Within the limit of available resources, the guidelines may be made accessible on the Internet to Member States to enable them to draw up and submit their report to the Secretariat by electronic means.

With regard to the recommendations, the Secretariat will prepare a report on their implementation by the Member States, on the basis of the information collected, in particular with regard to national legislation.

**(d) Technical assistance provided by the Secretariat to Member States**

In order to reduce their workload, the Secretariat will provide Member States, at their request or at the request of the General Conference, with technical assistance, which will focus both on a better understanding of the objectives of the convention or recommendation in question and on practical procedures for the preparation of their reports, in particular, the collection of information and the drafting of the reports.

**Stage 4: Consideration by the Executive Board of the reports for monitoring the effective implementation of conventions and recommendations**

The Secretariat will submit to the Executive Board a summary of the reports received from Member States on the measures taken for the implementation of the conventions. The Executive Board may, if it so desires, ask the Secretariat to submit to it for consideration all the reports for each country.

With regard to recommendations, the Secretariat will submit its consolidated report on the implementation of these instruments, prepared on the basis of the information collected.

The documents prepared by the Secretariat will be examined by the Executive Board, which will entrust the task to the Committee on Conventions and Recommendations. The debates and work of the Executive Board and the CR Committee arising from their consideration of the reports will take place in public meetings.

The Executive Board will transmit these documents to the General Conference, together with its observations or comments and any that the Director-General may make, following their consideration by the Executive Board.

**Stage 5: Decision of the General Conference concerning the reports for monitoring the effective implementation of conventions and recommendations**

The General Conference may take, as necessary, a decision with regard to the summaries of reports concerning the implementation of the conventions and recommendations.

The Director-General shall regularly inform the General Conference and the Executive Board with respect to the implementation of the decisions taken by the General Conference.

11. At that very same session, the Board also adopted framework guidelines, reproduced below, for the preparation of reports on the implementation of conventions for whose monitoring the CR Committee is responsible:

Framework Guidelines  
(177 EX/Decision 35 II)

**I. Information on the legislative, judicial, administrative and other measures taken by the State at the national level**

- (a) Pursuant to Article IV, paragraphs 4 and 6, and Article VIII of the Constitution, each State may provide information on its status in respect of UNESCO's conventions by indicating whether it plans to accede to the instruments to which it is not yet Party or which it has signed but not yet ratified.<sup>3</sup>
- (b) States should describe the specific legal framework governing the protection on their territory of the rights guaranteed by the UNESCO convention to which they are Parties. They should indicate, *inter alia*, whether the rights set forth in the convention are protected by their constitution, by a basic legislative text or by any other national provision, and whether the UNESCO convention has been incorporated into national legislation, and should make reference to the legal, administrative or other authorities competent in relation to the rights guaranteed by the convention and the scope of such competence.

**II. Information on the implementation of the convention (with reference to its provisions)**

This part of the report provides States with an opportunity to concentrate on more specific questions pertaining to the implementation of the instrument concerned. It should contain the information requested by the Committee on Conventions and

Recommendations in its most recent guidelines for the preparation of reports, and should set out the specific measures taken to respond to any concerns expressed by the Committee in its observations made at the conclusion of the examination of the State Party's previous report.

(a) Convention against Discrimination in Education

States should provide detailed information on:

- (i) the means employed to proscribe discrimination in education for the reasons set out in the Convention, and to ensure equality of treatment in education;

<sup>3</sup>

In the case of the conventions on education, States Parties may wish to include information transmitted to the United Nations treaty bodies on their endorsement of other international human rights standards, in particular when such information is directly related to States' implementation of the provisions of UNESCO's conventions. States could indicate if they are Parties to regional human rights instruments.

- (ii) the measures taken to ensure equal opportunities in education, and to attain education for all (EFA), including gender parity in education, and to implement strategies and programmes in order to achieve in the country the full exercise by all of the right to education without discrimination or exclusion;
  - (iii) progress made with respect to ensuring universal access to primary and secondary education, including technical and vocational education, and the means employed to protect the right of national minorities to carry out their own educational activities.
- (b) Convention on Technical and Vocational Education

States should provide detailed information on:

- (i) the measures taken to define strategies and implement programmes and curricula for technical and vocational education designed for young people and adults, within the framework of the respective education systems;
  - (ii) the measures taken to review periodically the structure of technical and vocational education, study programmes and plans, training methods and materials, as well as the forms of cooperation between the school system and the world of work, and the measures taken to give persons teaching in the field of technical and vocational education an opportunity to update their skills;
  - (iii) the measures taken to facilitate international cooperation and to participate actively in international exchanges concerning study and teacher training programmes, methods, equipment standards and textbooks in the field of technical and vocational education.
- (c) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property

States should provide detailed information on the measures taken to:

- (i) combat the illicit transfer of ownership, such as setting up one or more national services for the protection of the cultural heritage, and establishing and keeping up-to-date a national inventory of protected cultural property whose export would constitute an appreciable impoverishment of the national cultural heritage;
- (ii) combat illicit excavations, such as supervising archaeological excavations, ensuring the preservation *in situ* of certain cultural property, and protecting certain areas reserved for future archaeological research;
- (iii) control the export of cultural property, such as introducing an appropriate certificate by which the exporting State would specify that the export of the cultural property in question is authorized.

### **III. Methods introduced to draw the attention of the various authorities in the country to the instrument and to remove obstacles encountered**

- (a) The report should contain an assessment of the effectiveness of the methods introduced to draw the attention of the various authorities of the country to the instrument and to remove obstacles encountered. It should highlight the difficulties encountered in implementing the key provisions of the convention, and the legal and practical obstacles encountered by States in implementing the convention.

- (b) States should describe briefly the main issues that need to be resolved in order to promote the implementation of the key provisions of the convention in the country, or what measures have been taken to launch an awareness-raising campaign and to promote ratification.
- (c) States should describe the measures taken to raise awareness of the basic principles of the convention, including their translation into national and, where necessary, local languages, and their national or local dissemination, in particular to non-governmental organizations. States should specify the activities undertaken or supported by the National Commission with a view to promoting the convention and fostering debate on critical issues, in relation to the rights enshrined in the convention.

12. Since five of the eight conventions had been superseded by the advent of new technologies, the Board decided that the framework would apply to the three remaining conventions that were still being monitored regularly, namely:

- the Convention against Discrimination in Education (Paris, 14 December 1960),
- the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (Paris, 14 November 1970),
- the Convention on Technical and Vocational Education (Paris, 10 November 1989).

13. In addition, at its 34th session (2007), the General Conference, in 34 C/Resolution 87, decided that of UNESCO's 31 recommendations, the Executive Board would primarily monitor the following 11 recommendations (requiring monitoring as a matter of priority):

- Recommendation against Discrimination in Education (14 December 1960),
- Recommendation concerning the Status of Teachers (5 October 1966),
- Recommendation concerning Education for International Understanding, Cooperation and Peace and Education relating to Human Rights and Fundamental Freedoms (19 November 1974),
- Recommendation on the Status of Scientific Researchers (20 November 1974),
- Recommendation on the Development of Adult Education (26 November 1976),
- Revised Recommendation concerning the International Standardization of Educational Statistics (27 November 1978),
- Recommendation concerning the Status of the Artist (27 October 1980),
- Recommendation on the Recognition of Studies and Qualifications in Higher Education (13 November 1993),
- Recommendation concerning the Status of Higher-Education Teaching Personnel (11 November 1997),
- Revised Recommendation concerning Technical and Vocational Education (2 November 2001),
- Recommendation concerning the Promotion and Use of Multilingualism and Universal Access to Cyberspace (15 October 2003).

## II. PROCEDURES FOR THE EXAMINATION OF COMMUNICATIONS CONCERNING THE EXERCISE OF HUMAN RIGHTS IN UNESCO'S FIELDS OF COMPETENCE

14. At the request of the General Conference, the Executive Board adopted in 1978 the procedure laid down in 104 EX/Decision 3.3, and assigned the implementation therefore to the CR (see the text of the decision annexed to this document). That procedure was supplemented by a set of principles, rules and lines of conduct known as "the procedural practice" (see para. 41 and Annex II of this document).

15. It has often been pointed out in the course of debates within the CR that, in accordance with paragraph 7 of the decision, "the aim of the Committee was not to condemn the governments concerned, nor a fortiori to sanction them, but to improve the situation of the alleged victims".<sup>4</sup> Bearing in mind paragraph 14(k) of the decision, its members emphasized at the 155th session that "in exercising its mandate, the Committee endeavoured, for humanitarian reasons, to establish a dialogue with the governments concerned in order to consider with them what might be done to promote human rights falling within the competence of UNESCO by seeking an amicable solution to cases brought to its attention".<sup>5</sup>

16. It follows that a proper understanding of the CR's mandate, methods of work and specific characteristics, both by the representatives serving on the CR and by their respective governments, guarantees that its tasks will be discharged in accordance with its responsibilities.

### Treatment of communications

#### (i) Preliminary measures

17. Any communication that appears at first sight to be covered by the provisions of 104 EX/Decision 3.3 is dealt with in the following way:

- (a) the Secretariat sends a letter to the author of the communication describing the procedure laid down in 104 EX/Decision 3.3. The letter draws the author's attention to the conditions governing the admissibility of communications and asks him or her to fill in a form and sign a declaration agreeing to the examination of the communication in accordance with the procedure (see Annexes III and IV to this document);
- (b) the communication is then sent to the government concerned informing it that any reply it may wish to make will be brought to the notice of the Committee and that it may attend meetings of the Committee in order to provide additional information or answer questions;
- (c) the communications are transmitted to the members of the Committee, accompanied, where appropriate, by the reply from the government concerned and additional information provided by the author.

#### (ii) Time limits

18. It is to be noted that 104 EX/Decision 3.3 does not provide for any time limit in respect of the aforementioned measures.

19. The Secretariat deals with the communications as and when they arrive. The principal working document for the CR is normally ready one month before the opening of the session. Subsequent communications and additional information are reproduced in an addendum to the main document.

<sup>4</sup> Report of the working group on the methods of work of the Committee on Conventions and Recommendations, 156 EX/CR/2, paragraph 7.

<sup>5</sup> See Report of the Committee on Conventions and Recommendations, 155 EX/3 PRIV., paragraph 198.



20. In order to allow the government concerned to assess fully the communication concerning it, the Committee has decided that the government should have at least one month to consider it before the opening of the session and that communications and any correspondence relating thereto should in general be addressed preferably to the permanent delegates to UNESCO of the States concerned, under cover of a letter from the Secretariat.

21. This time limit, although observed in practice, is not a hard-and-fast one, since the representatives of the governments concerned sometimes agree to leave it to the Committee to produce a detailed decision, while declaring their readiness to consider a communication in accordance with an emergency procedure. Where such is not the case, the representative of the government concerned can always request that consideration of a communication should be postponed until the following session, even if the one-month time limit has been observed, when the appropriate authorities in his or her country have not been able to decide on their position.

22. For the authors of communications, the cases they submit to UNESCO are always important and urgent or indeed tragic. They submit them to UNESCO with confidence, in the hope that they will find a solution. For this reason, care has been taken not to set too strict a time limit for the transmission to the members of the CR of communications or additional information. Accordingly, it has been considered preferable, if need be, to postpone consideration of a late communication to a future session rather than not submit it to the Committee.

23. At the 156th session, the members of the Committee, looking into possible ways of speeding up the decision on admissibility of a communication, decided that any government concerned would in future be required to make its position known within a time limit of three months after the Secretariat had transmitted a new communication to it, failing which the Committee would proceed without further delay to examine the admissibility of the communication.

### **(iii) Examination of communications by the CR**

24. The Committee considers communications at a private meeting. It has before it a confidential document setting out all the communications by country and clearly showing the stage reached in the consideration of each communication. At the start of the consideration of each communication, the representative of the Director-General presents a summary of each of the cases, providing the most recent information received and particularly any information not included in the documents. The representative of the government concerned is then invited to give the members of the CR his or her views on the communication or communications in question. The members of the Committee have the opportunity to ask questions or seek further information. Deliberation on the content of the decision to be taken for each communication takes place without the presence of the representative of the State concerned. At the 140th session, "The Committee decided that members of the Committee representing countries about which a communication has been raised should not be present for the private discussions leading to a decision and recommendations when communications concerning their own country are considered. This would ensure:

- equal treatment of all States;
- recognizing the principle that States cannot be both judges and judged at the same time ;
- assisting decision-making by consensus;
- maintaining confidentiality."<sup>6</sup>

25. The Committee's first task is indeed to determine whether the conditions of admissibility listed in paragraph 14(a) of 104 EX/Decision 3.3 have been met.

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<sup>6</sup> Report of the Committee on Conventions and Recommendations: document 140 EX/3 PRIV., paragraphs 151-154.

26. Communications must in particular relate to violations of human rights lying within UNESCO's competence. Those rights, as expressed in the Universal Declaration of Human Rights, are the following:

- the right to education;
- the right to benefit from scientific progress;
- the right to participate freely in cultural life;
- the right to information, including freedom of opinion and expression.

To those rights are added others which constitute their indispensable complement, namely the right to freedom of thought and conscience, the right to seek, receive and impart, regardless of frontiers, information and ideas by any means whatsoever, the right to protection of the moral and material interests deriving from any scientific, literary or artistic production, and the right to freedom of assembly and association for activities connected with education, science, culture or information.

27. Such communications must be submitted either by individuals or by groups of individuals and non-governmental organizations possessing reliable knowledge of such violations, or by a person or persons presumed to have suffered an alleged violation of human rights as specified in the preceding paragraph. Such persons may include teachers, students, researchers, artists, writers and journalists; in short, intellectuals who on account of their activity come within UNESCO's fields of competence.

28. If the information supplied by the author of the communication is not such that the Committee can reach a decision on its admissibility, it can keep it on its agenda and seek additional information, in particular from the government of the State concerned, which is always invited to send a representative to the Committee.

29. It is not uncommon, during consideration of a communication's admissibility, for the Committee to examine its substance. There are several reasons for this. The conditions governing the admissibility of a communication are not all conditions of form. Certain conditions require at least a preliminary substantive examination. The same therefore applies, for example, to the question of UNESCO's competence, which, to be determined, often requires thorough examination. Secondly, in practice, ruling that a communication is admissible simply because the conditions governing admissibility are met does not necessarily make it easy to settle the case, and it may sometimes seem advisable not to do so while already actually considering, at least to some extent, the substance of the communication. Lastly, deferring in this way the ruling on the admissibility of a communication may make it possible for the dialogue with the States concerned to continue, and a fresh opportunity may thus be afforded to those States to find a satisfactory solution tending to favour the promotion of human rights within UNESCO's fields of competence.

30. At the 156th session, on the occasion of examination of the Committee's methods of work, some members maintained that a purely procedural admissibility decision merely meant that the communication could be examined by the Committee on the grounds that it met the criteria set out in 104 EX/Decision 3.3. It was after that procedural decision had been taken that the discussion as to substance was held with the government concerned. They therefore considered it necessary to speed up that decision-making process, which in some cases had been drawn out over several years. The Committee decided to give the government concerned three months in which to respond to the allegations contained in a communication. If the government concerned did not contest the admissibility of a communication, the CR would decide on such admissibility at the first meeting devoted to the examination of the communication in question. If on the other hand the government concerned did contest admissibility, the Committee would obviously examine the arguments put forward by the government concerned and would endeavour to take a decision at

the first meeting. The CR stressed, however, that in declaring a communication admissible it was in no way implying any condemnation of the government concerned.<sup>7</sup>

31. At the 171st session, the Committee, examining its methods of work, decided that more attention should be paid to the application of the criteria of admissibility of communications so as to ensure greater clarity and improve the work of the Committee in that field. To that end, when a communication is declared admissible, the Committee should specify, in the light of 104 EX/Decision 3.3, the criteria and conditions underlying the decision of admissibility.<sup>8</sup>

32. Having declared a communication to be admissible, the CR continues to examine it as to its substance while endeavouring to find a solution in accordance with 104 EX/Decision 3.3, paragraph 7, which provides that, in matters concerning human rights within its fields of competence, UNESCO, basing its efforts on moral considerations and its specific competence, should act in a spirit of international cooperation, conciliation and mutual understanding, and should not play the role of an international judicial body.

#### **(iv) The terminology of 104 EX/Decision 3.3 and the wording used**

33. The Secretariat makes every effort to reflect faithfully the position of the author and the position of the government concerned.

34. The wording used to express the CR's position, in particular the wording of its decisions, takes account of the essential fact that the CR is not a court and cannot become one. The wording is therefore deliberately not very juridical in character. Paragraph 14(k) of 104 EX/Decision 3.3 is significant in this regard. At the 144th session, it was pointed out that the "appeal for clemency" was motivated by humanitarian considerations in keeping with the spirit and letter of 104 EX/Decision 3.3. For this reason, while being aware of the need to conform to human rights usage, the CR has always been careful not to confine itself to an over-rigid terminology (see Annex V to this document: thematic list of wording used in the decisions of the Committee on Conventions and Recommendations).

#### **(v) The special character of the CR's meetings**

35. The concern for effectiveness in the search for an amicable solution means that communications are examined in the strictest confidence, in the Committee and also in the Board when it examines the report of the CR. Nothing has ever been done to make public cases that have been considered and/or settled. Nevertheless, the Board has examined a communication in public meeting at the Committee's request.

36. It is to be noted that so far, all the Members of the Executive Board have always respected the special character of the private meetings of the CR when it considers communications.

37. Accordingly, notwithstanding the provisions of Rule 30.5 of the Rules of Procedure which provides that "any Member of the Board may take part in the work of subsidiary bodies to which it does not belong", Members of the Board who are not members of the CR have refrained from attending the Committee's meetings when it is considering communications. Likewise, the special private character of the Board's meetings when it examines the CR's report concerning the communications is always upheld (Rule 29). Only a limited number of members of the Secretariat attend those meetings.

#### **(vi) Cases and questions**

38. Certain communications sent to UNESCO do not allege individual cases of violations of human rights but a series of violations of human rights, so that there is some doubt as to whether

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<sup>7</sup> Report of the Committee on Conventions and Recommendations: document 156 EX/52, paragraphs 9 and 10.

<sup>8</sup> Report of the Committee on Conventions and Recommendations: document 171 EX/61, paragraphs 16-18.

they constitute a “question” within the meaning of 104 EX/Decision 3.3, that is to say, “massive, systematic or flagrant violations of human rights and fundamental freedoms which result either from a policy contrary to human rights applied *de jure* or *de facto* by a State or from an accumulation of individual cases forming a consistent pattern”. “Questions” should be considered, in accordance with 104 EX/Decision 3.3, “by the Executive Board and the General Conference in public meetings”. It will be noted that, to date, use has never been made of this procedure whose effect would be to remove the communication from the jurisdiction of the Committee.

#### **(vii) Implementation of the CR’s decisions**

39. Having concluded its work, the CR adopts a confidential report containing the decisions it has adopted 48 hours after examination of the communications and all relevant information arising from its examination of the communications which the Committee considers may be usefully brought to the notice of the Executive Board. The report also contains recommendations that the CR may wish to make either generally or regarding the action to be taken on a communication under consideration. It is customary for the Board to take note of the narrative part of the report and to endorse the wishes expressed by the CR in its decisions. After the session, the author of the communication and the government concerned are informed of the Committee’s decisions. The author of the communication receives a letter containing a summary of the position taken by the government concerned and the Committee’s decision. A copy of the relevant part of the report is sent to the government concerned.

40. The Committee’s decisions are final. The Committee does not, however, decline to give fresh consideration to a communication on the basis of additional information or new material.

#### **(viii) The procedural practice of the CR**

41. In considering communications, the CR has formulated certain principles, rules or lines of conduct for the implementation of 104 EX/Decision 3.3. These principles, rules or lines of conduct together constitute what is referred to as “the procedural practice” of the CR. Although neither systematic nor all-embracing, the rules thus laid down provide useful guidelines for dealing with cases where circumstances are similar. Annex III to Part II of this document illustrates the content and scope of these guidelines.

#### **(ix) Cooperation and coordination with other organizations set up to protect human rights**

42. The fact that a case is being examined within another organization in the United Nations system or by another international organization does not prevent the CR from examining it as well. At the Committee’s request, the Secretariat has, in addition, often had occasion to contact other international organizations, particularly when dealing with the same cases, in order to obtain information or to agree on the distribution of tasks.

43. On the occasion of the examination of the CR’s methods of work at the 156th session of the Executive Board, stressing the special character of UNESCO’s procedure as compared with similar United Nations procedures, most members observed that those procedures were not incompatible but, rather, complementary. They did not wish to change the Committee’s practice. The CR decided that when a communication submitted to it for examination was being or had already been examined by another body in the United Nations system, the Secretariat would check with that other body that there was no unnecessary duplication or incompatibility, having due regard, in particular, for the Committee’s humanitarian aims. Should there be any doubt, the Secretariat would submit the question to the Committee.

44. On examination of its methods of work at the 171st session, the Committee decided that contact would be made with other international organizations, in particular when they were dealing with the same cases, so as to obtain additional information.

### **The specific characteristics of UNESCO's procedure**

45. The procedure laid down in 104 EX/Decision 3.3 of the Executive Board of UNESCO has specific characteristics in comparison with similar procedures in other organizations of the United Nations system.

46. In accordance with 104 EX/Decision 3.3, a complaint may be directed at any Member State, for the very reason that it is a member of UNESCO;<sup>9</sup> and the complaint will be examined under a procedure that will preserve its individual character from beginning to end.

47. It will also be noted that the various aspects of UNESCO's procedure are not, taken separately, either very original or very new. It is the combination of these aspects and the spirit in which they are applied that give the procedure its originality. While the other procedures seem most often to take a conflictual and accusatory form, the UNESCO procedure – although it is largely similar - has from the very beginning been deliberately applied exclusively with a view to seeking a solution with the State concerned. For this reason, everything has always been done to avoid reaching the conclusion that a State has violated human rights. Such a conclusion would in fact mean a deadlock, preventing the continued search for a solution. This is the background against which the many and varied stages of the procedure before the CR must be understood, since each stage represents a further level of dialogue with the State concerned and, consequently, another opportunity to find a satisfactory solution. The desire shown by the Committee to take its decisions solely by consensus is no doubt a reflection of the same concern.

48. However, what is perhaps the overriding characteristic of the UNESCO procedure is the emphasis, or indeed the insistence, on its strictly confidential nature, even after cases have been settled. No publicity has ever been given to the successes achieved through the UNESCO procedure, in order to sustain the confidence of the State concerned and secure its cooperation. The desire for confidentiality has even been taken to the point of declaring inadmissible those communications whose confidentiality had clearly been breached by their authors.

49. However, confidentiality does not mean that any interested party cannot be fully informed about the procedure. Indeed the UNESCO monthly publication *Sources* has devoted a special issue to human rights and the CR's procedure (No. 16, June 1990). UNESCO's Internet site (<http://www.unesco.org/fr/la/cr>) provides an outline of the procedure. For further information, reference can also be made to the relevant documents of the United Nations, and in particular to document A/CONF.157/PC/61/Add.6, prepared by UNESCO for the World Conference on Human Rights.

50. At the 171st session of the Executive Board, the Committee examined its methods of work and decided that the documents of the Committee would be published or made accessible to the public after a period of 20 years, as provided for by Rule 29, paragraph 4, of the Rules of Procedure of the Executive Board, so as to ensure that the Committee's achievements were more widely known.

51. Among legal writings, the articles published by three members of the Committee, namely Mr Francesco Margiotta Broglio (Italy), Mr Georges-Henri Dumont (Belgium), Chairman of the CR from 1987 to 1989, and Mr Karl Joseph Partsch (Germany), member of the CR until 1993, and the Manual by Mr Klaus Hübner (Germany), also a Committee member, are particularly interesting.<sup>10</sup>

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<sup>9</sup> In practice, even non-Member States of UNESCO have of their own accord agreed to a communication concerning them being considered by the Committee.

<sup>10</sup> F. MARGIOTTA BROGLIO, *Protezione internazionale dei diritti dell'uomo nei settori di competenza de l'UNESCO* [International protection of human rights in UNESCO's fields of competence]. *Rassegna Quadrimestrale della Commissione Nazionale Italiana per l'UNESCO*, 1985, No. 3, pp. 8-17.  
G.H. DUMONT, *UNESCO's practical action on human rights*. *International Social Science Journal*, Vol. 122 (1989), pp. 585-594.

52. The CR's competence to examine individual communications alleging violations of human rights in UNESCO's fields of competence has been gradually recognized by practically all UNESCO's Member States, and an increasing number of the governments concerned by the communications send representatives to the Committee and cooperate with it although they are under no legal obligation to do so. This is a tribute to the procedure established by the Executive Board in 104 EX/Decision 3.3 and to the way in which it has been applied for 30 years.

53. In establishing the terms of reference of the CR, the Executive Board recalled and confirmed the role that the Director-General has always played with regard to the promotion of human rights. In accordance with well-established practice, the Director-General has had occasion through the right of intercession vested in him by the General Conference, in particular in 19 C/Resolution 12.1, personally to make various humanitarian representations on behalf of persons who have allegedly been victims of human rights violations in UNESCO's fields of competence and whose cases have called for urgent consideration. Paragraphs 8 and 9 of 104 EX/Decision 3.3 recognize the important role of the Director-General in this regard:

“8. Recognizing the important role of the Director-General, in:

- (a) *seeking, continually to strengthen the action of UNESCO in the promotion of human rights, both through the settlement of cases and the elimination of massive, systematic or flagrant violations of human rights and fundamental freedoms; and,*
- (b) *initiating consultations, in conditions of mutual respect, confidence and confidentiality, to help reach solutions to particular problems concerning human rights.*

9. Invites the Director-General to pursue this role.”

### **Summary of the results of the application of the procedure laid down by 104 EX/Decision 3.3**

54. From 1978 to September 2007, 545 communications were considered by the Committee on Conventions and Recommendations. The results concerning alleged victims (or groups of alleged victims) for this period may be broken down as follows:

released before completion of sentence	200
released after completion of sentence	11
authorized to leave their country to go to study or teach	21
authorized to return to their country	35
able to resume their employment or activity falling within UNESCO's fields of competence	29
able to resume a banned publication or broadcast programme	14

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K.J. PARTSCH, *La mise en oeuvre des droits de l'homme par l'UNESCO. Annuaire français de droit international*, XXXVI, 1990, pp. 482-506.

K.J. PARTSCH and K. HÜFNER, *UNESCO Procedures for the Protection of Human Rights. Human Rights: International Protection, Monitoring*, edited by J. Symonides, Ashgate & UNESCO, 2003, pp. 111-132.

K. HÜFNER: "How to File Complaints on Human Rights Violations", edited by the German Commission for UNESCO, 2002, pp. 79-88, a new edition in English, 2002, pp. 79-88 and a CD-ROM, 2005.

K. HÜFNER, *UNESCO und Menschenrechte* [UNESCO and human rights]. Politikwissenschaft, Band 3, 2008, pp. 21-78.

able to resume normal life following a cessation of threats	3
able to benefit from changes in certain education laws which were discriminatory towards ethnic or religious minorities	10
able to obtain passports and/or grants, or to receive diplomas	12
able to resume studies	9
Total	344

(The 201 remaining cases concern communications that are inadmissible or whose examination has been suspended or is under way.)

## ANNEX I

### 104 EX/DECISION 3.3

#### 3.3 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 THE SPHERES OF ITS COMPETENCE, IN ORDER TO MAKE ITS ACTION MORE EFFECTIVE: REPORT OF THE WORKING PARTY OF THE EXECUTIVE BOARD (104 EX/3)

The Executive Board,

1. Mindful that the competence and role of UNESCO in the field of human rights derive primarily from Article 1.1 of the Constitution of UNESCO, which states: “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, without distinction of race, sex, language or religion, by the Charter of the United Nations”, and from the Charter of the United Nations,
2. Recalling the Universal Declaration of Human Rights, the international covenants on human rights and the various conventions and recommendations adopted by UNESCO,
3. Recalling 19 C/Resolution 6.113 concerning UNESCO’s responsibilities in the field of human rights,
4. Recalling also 19 C/Resolution 12.1: “UNESCO’s contribution to peace and its tasks with respect to the promotion of human rights and the elimination of colonialism and racialism - long-term programme of measures whereby UNESCO can contribute to the strengthening of peace”; and in particular paragraph 10 of the resolution, which invites the Executive Board and the Director-General:
  - “(a) to examine with particular attention the general situation with regard to respect for human rights throughout the world in UNESCO’s fields of competence;
  - (b) to study 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 the spheres to which its competence extends, in order to make its action more effective;
  - (c) to continue to establish, with a view to the implementation of subparagraphs (a) and (b), close co-operation and co-ordination with the relevant United Nations organs so as to take advantage of their work and the lessons that can be learned from them in this field “;
5. Having considered the report of a working group of the Board set up by virtue of 102 EX/Decision 5.6.2 to carry out an in-depth study of document 102 EX/19, the analytical summary of discussions that took place at the 102nd session of the Board, and additional written comments provided by members of the Board,
6. Mindful of Article 1.3 of the Constitution of UNESCO, which states: “With a view to preserving the independence, integrity and fruitful diversity of the cultures and educational systems of the States members of the Organization, the Organization is prohibited from intervening in matters which are essentially within their domestic jurisdiction”.



7. Considering that, in matters concerning human rights within its fields of competence, UNESCO, basing its efforts on moral considerations and its specific competence, should act in a spirit of international co-operation, conciliation and mutual understanding; and recalling that UNESCO should not play the role of an international judicial body,
8. Recognizing the important role of the Director-General, in:
  - (a) seeking, continually to strengthen the action of UNESCO in the promotion of human rights, both through the settlement of cases and the elimination of massive, systematic or flagrant violations of human rights and fundamental freedoms, and,
  - (b) initiating consultations, in conditions of mutual respect, confidence and confidentiality, to help reach solutions to particular problems concerning human rights,
9. Invites the Director-General to pursue this role;
10. Considering that, in the exercise of its competence in the field of human rights, UNESCO is called upon to examine:
  - (a) cases concerning violations of human rights which are individual and specific,
  - (b) questions of massive, systematic or flagrant violations of human rights which result either from a policy contrary to human rights applied de jure or de facto by a State or from an accumulation of individual cases forming a consistent pattern,
11. Considering the terms of reference of the Committee on Conventions and Recommendations in Education,
12. Taking into account the tasks already entrusted to the Committee concerning human rights matters within the Organization's fields of competence,
13. Decides that the Committee will henceforth be designated "the Committee on Conventions and Recommendations";
14. Decides that the Committee will continue to carry out its functions with respect to conventions and recommendations and will consider communications received by the Organization concerning cases and questions of violations of human rights within UNESCO's fields of competence in accordance with the following conditions and procedures:

### **Conditions**

- (a) Communications shall be deemed admissible if they meet the following conditions:
  - (i) the communication must not be anonymous;
  - (ii) the communication must originate from a person or a group of persons who, it can be reasonably presumed, are victims of an alleged violation of any of the human rights referred to in paragraph (iii) below. It may also originate from any person, group of persons or non-governmental organization having reliable knowledge of those violations;
  - (iii) the communication must concern violations of human rights falling within UNESCO's competence in the fields of education, science, culture and information and must not be motivated exclusively by other considerations ;
  - (iv) the communication must be compatible with the principles of the Organization, the Charter of the United Nations, the Universal Declaration of Human Rights, the

international covenants on human rights and other international instruments in the field of human rights;

- (v) the communication must not be manifestly ill-founded and must appear to contain relevant evidence;
- (vi) the communication must be neither offensive nor an abuse of the right to submit communications. However, such a communication may be considered if it meets all other criteria or admissibility, after the exclusion of the offensive or abusive parts;
- (vii) the communication must not be based exclusively on information disseminated through the mass media;
- (viii) the communication must be submitted within a reasonable time-limit following the facts which constitute its subject-matter or within a reasonable time-limit after the facts have become known;
- (ix) the communication must indicate whether an attempt has been made to exhaust available domestic remedies with regard to the facts which constitute the subject-matter of the communication and the result of such an attempt, if any;
- (x) communications relating to matters already settled by the States concerned in accordance with the human rights principles set forth in the Universal Declaration of Human Rights and the international covenants on human rights shall not be considered.

## **Procedures**

- (b) The Director-General shall:
  - (i) acknowledge receipt of communications and inform the authors thereof of the above-mentioned conditions governing admissibility;
  - (ii) ascertain that the author of the communication has no objection to his communication, after having been communicated to the government concerned, being brought to the notice of the Committee, and to his name being divulged;
  - (iii) upon receipt of an affirmative answer from the author of the communication, transmit the communication to the government concerned, informing it that the communication will be brought to the notice of the Committee, together with any reply the government may wish to make;
  - (iv) transmit the communication to the Committee, together with the reply, if any, of the government concerned and additional relevant information from the author, taking into account the need to proceed without undue delay;
- (c) the Committee shall examine in private session the communications transmitted to it by the Director-General;
- (d) the Committee shall decide on the admissibility of communications in accordance with the above-mentioned conditions;
- (e) representatives of the governments concerned may attend meetings of the Committee in order to provide additional information or to answer questions from members of the Committee on either admissibility or the merits of the communication;

- (f) the Committee may avail itself of the relevant information at the disposal of the Director-General;
  - (g) in consideration of a communication, the Committee may, in exceptional circumstances, request the Executive Board to authorize it under Rule 29 of the Rules of Procedure to take appropriate action;
  - (h) the Committee may keep a communication submitted to it on its agenda while seeking additional information it may consider necessary for the disposition of the matter;
  - (i) the Director-General shall notify the author of the communication and the government concerned of the Committee's decision on the admissibility of the communication;
  - (j) the Committee shall dismiss any communication which, having been found admissible, does not, upon examination of the merits, appear to warrant further action. The author of the communication and the government concerned shall be notified accordingly;
  - (k) communications which warrant further consideration shall be acted upon by the Committee with a view to helping to bring about a friendly solution designed to advance the promotion of the human rights falling within UNESCO's fields of competence;
15. Decides further that the Committee shall submit confidential reports to the Executive Board at each session on the carrying out of its mandate under the present decision. These reports shall contain appropriate information arising from its examination of the communications which the Committee considers it useful to bring to the notice of the Executive Board. The reports shall also contain recommendations which the Committee may wish to make either generally or regarding the disposition of a communication under consideration;
16. Decides to consider confidential reports of the Committee in private session and to take further action as necessary in accordance with Rule 28 of the Rules of Procedure;
17. Decides also that communications transmitted to it by the Committee which testify to the existence of a question shall be dealt with in accordance with paragraph 18 below;
18. Considers that questions of massive, systematic or flagrant violations of human rights and fundamental freedoms - including, for example, those perpetrated as a result of policies of aggression, interference in the internal affairs of States, occupation of foreign territory and implementation of a policy of colonialism, genocide, apartheid, racialism, or national and social oppression - falling within UNESCO's fields of competence should be considered by the Executive Board and the General Conference in public meetings;
19. Decides to consider at its 105th session the report to be made by the Executive Board and the Director-General to the General Conference, at its twentieth session, on the implementation of Part II of 19 C/Resolution 12.1.

## ANNEX II

### PROCEDURAL PRACTICE OF THE COMMITTEE ON CONVENTIONS AND RECOMMENDATIONS

[References between square brackets are to the relevant provisions of 104 EX/Decision 3.3]

#### 1. The Committee is not a judicial or quasi-judicial body

[para. 7]

This principle is constantly recalled by the Committee when a government asserts that the Committee cannot set itself up as a supreme international court with the power to review the final judgments passed by the competent courts of Member States. The Committee has stated that its sole object is, for purely humanitarian reasons, to establish dialogue with the governments concerned in order to consider with them what might be done on behalf of alleged victims in the event of their having suffered from violations of human rights in UNESCO's fields of competence. The Committee's aim is to promote those rights by seeking a friendly solution to human problems. Its work consists in seeking information and facilitating conciliation.

#### I. CONDITIONS OF ADMISSIBILITY OF COMMUNICATIONS

#### 2. The concept of "reliable knowledge"

[para. 14 (a) (ii)]

A communication may originate from the presumed victims of an alleged violation of human rights and from any person or group of persons or non-governmental organizations having reliable knowledge of those violations. On the matter of "reliable knowledge", it has been noted that in all legal systems good faith is presumed. It has been considered that this rule should also apply in respect of the condition of admissibility provided for in paragraph 14(a)(ii).

#### 3. When the profession of the alleged victim comes within UNESCO's fields of competence, there is a presumption at the stage of examination as to admissibility that there exists a link between the alleged violation and UNESCO's fields of competence

[para. 14 (a) (iii)]

Such is the practice of the Committee, which has made it clear that this presumption cannot be considered to be a decisive factor justifying UNESCO's intervention. It counts only for the admissibility of the communication. UNESCO's competence is then determined *rationae personae*, according to the status of the alleged victim. Whenever there has been uncertainty as to that status, the alleged victim has always been given the benefit of the doubt.

#### 4. The activity of which the alleged victim is accused, and not necessarily his or her profession, is decisive in determining whether or not a communication is admissible

[para. 14 (a) (iii)]

The Committee laid down this principle when considering a communication concerning an alleged victim whose profession did not, on the face of it, have any link with UNESCO's fields of competence (the case, for example, of a manual worker who had published articles). It is by virtue of this principle that the Committee asks the government concerned for further information about the

grounds on which the alleged victim has been convicted or in order to establish whether the activities of which he or she was accused included incitement to violence.

## **5. Rights that do not per se come within UNESCO's fields of competence**

[para. 14 (a) (iii)]

(a) Right of movement: Though this right, which is a fundamental human right, does not per se come within UNESCO's fields of competence, it might nevertheless do so when its exercise is linked to activities that do come within those fields, as for example going abroad in order to study, teach or engage in research. With regard to problems affecting the movement of scientists and other categories of persons within its fields of competence, the Committee considered at its 155th session that, while it could not remain indifferent to such problems, UNESCO was not the appropriate forum for examining communications concerning the granting of visas by a government to citizens of a foreign country which was a matter pertaining to national sovereignty.

(b) Right to emigrate: The Committee has decided that this right does not per se come within UNESCO's fields of competence. The admissibility of a communication concerning this right should be determined on the basis of other criteria, i.e. the profession of the alleged victim, and in the light of additional information provided by the government concerned and by the author of the communication.

(c) Right to freedom of association: On one occasion, the Committee decided that a communication that had been submitted to it did not come within its competence because it hinged on the exercise of the right to freedom of association per se and should consequently be declared inadmissible. It nevertheless requested the representative of the government concerned to inform the relevant authorities in his country of the humanitarian concerns voiced by some of its members.

(d) The problem of compensation for an alleged victim does not fall within UNESCO's competence.

## **6. Prior selection of communications by the Secretariat**

[para. 14 (a) (iii)]

In principle, the Secretariat is not authorized to weed out communications except in cases specified by the Committee, namely:

(a) Allegations manifestly not within UNESCO's competence. At the 105th session, the Committee decided to allow the Director-General to "proceed with a preliminary analysis of communications in order to exclude those which manifestly do not relate to the competence of UNESCO".

[para. 14 (a) (v)]

(b) Allegations manifestly ill-founded or whose authors are mentally unbalanced. The Committee decided to authorize the Secretariat "not to deal with communications whose authors are mentally unbalanced or which are manifestly ill-founded". However, in 1996 the Committee reasserted the principle that, when in doubt, the Secretariat must inform the Chairperson of the Committee, who decides whether the communication should be transmitted to the Committee.

In addition, some communications submitted to the Committee for consideration contain, in part, material not concerning UNESCO's fields of competence. Since it is "free to judge certain parts of a communication inadmissible while accepting other parts", the Committee has had occasion to ask the Secretariat to review such communications in order to eliminate from them allegations not concerning human rights within the Organization's competence.

**7. Emergency: derogation from certain human rights in accordance with Article 4 of the International Covenant on Civil and Political Rights**

[para. 14 (a) (iv)]                      The Committee has recognized that, in accordance with Article 4 of the International Covenant on Civil and Political Rights, a state may, in time of public emergency, derogate from certain human rights to the extent strictly required by the exigencies of the situation. Consequently, it is not required to consider communications relating to such situations.

**8. When there is doubt within the Committee regarding the condition laid down in paragraph 14(a)(v) of 104 EX/Decision 3.3 (a communication must not be manifestly ill-founded and must contain relevant evidence), the Committee asks the Secretariat to transmit the information provided by the government concerned to the author**

[para. 14 (a) (v)]                      It should be made clear in this connection that the information supplied by the government concerned is transmitted to the author in summary form only after the Committee has taken cognizance of it. The Secretariat is thus not empowered to transmit that information upon receiving it. The Committee has also had occasion to ask the Secretariat to transmit to the author a record of its discussions concerning the communication in extenso, as contained in its report.

**9. When a communication contains material calling into question the foundations of a Member State it is declared inadmissible**

[para. 14 (a) (vi)]                      This concerns cases where, for example, the communication contains slanderous and offensive attacks against the social structure, constitution and legislation of a state. As submitted, the communication cannot be considered, it being understood that the author of the communication might subsequently submit an amended communication not calling into question the foundations of a Member State.

**10. The Committee concerns itself only with actual and not potential violations of human rights**

[para. 14 (a) (vi)]                      A communication that concerns only a potential violation of human rights and not an actual violation is declared inadmissible. The Committee cannot presume in advance that a human rights violation might occur (e.g. case of a person living abroad who wanted to go back to his country but feared that criminal proceedings would be instituted against him on his return, when it could not be known whether the authorities concerned would indeed prosecute him if he returned).

**11. It is the allegations contained in the communication form that must not be based exclusively on media reports**

[para. 14 (a) (viii)]

**12. A communication must be submitted within a reasonable time limit following the facts which constitute its subject-matter or within a reasonable time limit after the facts have become known**

[para. 14 (a) (viii)]

A communication that has not been submitted within a reasonable time limit following the facts which constitute its subject-matter or after the facts have become known is declared inadmissible.

**13. The author of a communication must indicate whether steps have been taken to exhaust all possible domestic remedies and what their outcome has been**

[para. 14 (a) (ix)]

Since the Committee is not a court of law, the author of a communication is not obliged to have exhausted domestic remedies, but to indicate whether steps have been taken to obtain them. The Committee has agreed that it should be flexible in this regard. Consequently, and contrary to the procedure applied by other authorities, a communication could therefore be admissible under the procedure established in 104 EX/Decision 3.3, even if domestic remedies have not been exhausted.

**14. Submission of a communication to the CR or to another body in the United Nations system**

[para. 14 (a) (ix)]

At the 156th session of the Executive Board, most members of the Committee stressed the special character of UNESCO's procedure as compared with similar United Nations procedures, observing that those procedures were not incompatible but, rather, complementary. They did not wish to change the Committee's practice. The Committee specified that when a communication submitted to it for examination was being or had already been examined by another body in the United Nations system, the Secretariat would check with that other body that there was no unnecessary duplication or incompatibility, having due regard, in particular, for the Committee's humanitarian aims. Should there be any doubt, the Secretariat would submit the question to the Committee.

At the 171st session of the Executive Board, the Committee decided that contact would be made with other international organizations, in particular when they were dealing with the same cases, so as to obtain additional information.

**15. A communication considered to be settled may be struck by the Committee from its list, subject to the Secretariat receiving confirmation of the reason why the communication has been considered to be settled (e.g. confirmation that the alleged victim has indeed been authorized to return to his or her country)**

[para. 14 (a) (x)]

The Committee stated when adopting this decision that if such confirmation did not reach the Secretariat by the next session, the communication would then be placed on the agenda of the next session of the Committee.

**16. Communication struck from the list ipso facto in the event of there being no reply from its author**

[para. 14 (a) (x)] In cases where the author of the communication does not reply to requests for further information made by the Committee, the practice of the Committee is to grant a period of grace and to strike the communication from its list only if the author still fails to reply. This rule is valid even in cases where the government concerned has never produced any comments. The Committee has also had occasion to request the Secretariat to notify the author of a communication that, should he fail to seek administrative or judicial redress in the country concerned, notwithstanding having been informed of this by the Committee, it would strike the communication from its list ipso facto at its next session.

**II. PROCEDURES**

**17. Time limits for the transmission of an additional communication or additional information to the governments concerned**

[para. 14 (b) (iii)] The Committee has taken the view that any further communication or additional information transmitted by the author of a communication to the Secretariat should reach the government concerned at least one month before the Committee's session. Otherwise, the representative of the government concerned should be able to ask for the communication not to be considered until the following session, to enable the relevant authorities in his or her country to determine their position in the light of this new or additional information. At the 156th session of the Executive Board, the Committee having decided that any government concerned would in future be required to make its position known within a time limit of three months after the Secretariat had transmitted a new communication to it, the time limit for transmission of the communication is modified.

**18. Agreement of the Committee to a request to consider a communication submitted urgently on account of the seriousness of the matter**

[para. 14 (b) (iv)] The Committee has made it clear in this connection that prior submission of the form is by no means a condition of admissibility. The sole purpose of the form is to make it easier for the author of the communication to set out his or her complaints and for the Committee to examine the communication.

**19. Need to preserve the confidential character of communications**

[para. 14 (c)] Confidentiality is considered to be essential for the success of the Committee's action. In cases where this principle is not observed by the author of the communication, it is up to the Committee to decide whether such indiscretion constitutes an abuse of the right to submit communications under the terms of paragraph 14(a)(vi) of 104 EX/Decision 3.3 and then to strike the communication from its list, as a kind of penalty. In practice, communications whose authors had clearly breached the confidential character of the procedure have been declared inadmissible (the Committee has sometimes instructed



the Secretariat to remind the author of the need to preserve the confidential character of the Committee's work).

## **20. A communication can only be declared admissible by express decision of the Committee**

[para. 14 (d)]

It is important to distinguish decisions on the "admissibility" of a communication, which are entirely the responsibility of the Committee, from those on the "transmissibility" of a complaint which, at the request of the Committee, are left to the discretion of the Secretariat. (See No. 6 above.)

## **21. Decision on the admissibility of a communication**

At the 156th session of the Executive Board, the Committee stressed that in declaring a communication admissible it was in no way implying any condemnation of the government concerned. It was simply recognizing that the communication met the admissibility criteria set out in 104 EX/Decision 3.3 and that it might be examined as to its substance.

The Committee also agreed that, in order to speed up its decision-making on the admissibility of communications:

- any government concerned by a communication was required to make its position known within a time limit of three months after the Secretariat had transmitted a new communication to it, failing which the Committee would proceed without further delay to examine the admissibility of the communication;
- If the government concerned did not contest the admissibility of a communication, the CR would decide on such admissibility at the first meeting devoted to the examination of the communication in question. If on the other hand the government concerned did contest admissibility, the Committee would obviously examine the arguments put forward by the government concerned and would endeavour to take a decision at the first meeting.

At the 171st session of the Executive Board, the Committee decided that more attention should be paid to the application of the criteria of admissibility of communications so as to ensure greater clarity and improve the work of the Committee in that field. To that end, when a communication is declared admissible, the Committee should specify, in the light of 104 EX/Decision 3.3, the criteria and conditions underlying the decision of admissibility.

## **22. The Committee may express its concern regarding a particularly serious case and still declare the communication inadmissible**

[para. 14 (d)]

A communication may be struck from the Committee's list on the grounds that it does not satisfy the conditions for admissibility provided for in paragraph 14(a) of the decision (for instance, it does not come within one of UNESCO's fields of competence). However, the Committee can declare a communication inadmissible and at the same time express its strong concern about the seriousness of the human rights violation it refers to.

### **23. Cooperation of the government concerned**

[para. 14 (e)]

It is a constant rule of the Committee to invite the governments concerned to send representatives to the Committee, and they are always allowed to speak so that they can provide all the clarifications they consider appropriate. Even though the presence of a representative is not obligatory, the Committee has always considered it desirable that “solutions to human rights problems be sought through dialogue with the governments concerned”. The Committee has therefore constantly drawn the attention of the governments concerned to the importance it attached to the presence of a representative.

Lack of cooperation from the government concerned has often prompted the Committee to request the Chairperson of the Committee or the Director-General to take steps to obtain the attendance of a government representative or at least a letter.

On one occasion, having noted for the third time that the government concerned by a communication had not replied or sent a representative, the Committee declared the communication to be admissible, after stressing that the procedure did not expressly require that government’s attendance. It stated, however, that it should not be inferred from this that, in future, other communications would be automatically admitted when the government concerned did not send a representative. There has also been a case of the Committee considering submitting an individual report to the Executive Board so as to obtain the cooperation of the government concerned. At the 157th session, given the silence of the authorities, which on two occasions had not seen fit to reply to the letters which, at the Committee’s request, the Director-General had addressed to the President of the Republic and to the Ambassador, Permanent Delegate of a country concerned, and failing any additional information supplied at the session by the representatives of the government concerned, the Executive Board, on the Committee’s proposal, examined the communication in question at a private meeting, inviting the representative of the government concerned, in accordance with Rule 30, paragraph 3, of its Rules of Procedure.

### **24. Members of the Committee who represent the states concerned by a communication should not be present during the private discussions leading to a decision or to recommendations concerning that communication**

[para. 14 (e)]

This principle was clearly established at the 140th session. The concern is to “ensure equal treatment of all states, recognizing the principle that states cannot be both judges and judged at the same time, assisting decision-making by consensus and maintaining confidentiality”.

### **25. The Committee may defer consideration of a communication until it receives additional information regarding it**

[para. 14 (h)]

- A communication may be kept on the Committee’s agenda and consideration of it suspended until such time as a national court reaches a decision.

- The Committee may request information on a communication from other United Nations bodies, and from bodies such as the International Committee of the Red Cross or the Inter-American Commission on Human Rights ...

- On various occasions the Committee has found itself unable to continue consideration of a communication because it has not obtained sufficient information. In such cases, the Committee has decided to put the communication “on hold”, that is, to suspend consideration of it whilst maintaining it on its list, it being understood that it would be put before the Committee again if new information were provided.

## **26. Efforts to find a friendly solution**

[para. 14 (k)]

With the aim of seeking a humanitarian solution, on a friendly basis, to a case brought to its attention, the Committee has decided on several occasions to invite the Director-General, the Chairperson of the Committee or the Chairperson of the Executive Board to use their good offices, to consult or approach the governments concerned with appeals for clemency or to make contact with them with a view to achieving the desired result. The Committee has twice decided to send a mission of good offices, with the agreement of the governments concerned.

## **27. The Committee is vested with discretionary powers for the examination of a communication**

[para. 14 (k)]

The Committee has had occasion to recall this basic principle. Accordingly, when acceding to the request of one government to postpone examination of a communication until its next session, the Committee specified that that decision did not constitute a precedent, reserving the right to examine communications whether or not the governments concerned were represented.

## **28. Agreement of the Committee to the request to withdraw a communication made by its author**

[para. 14 (k)]

The Committee has had occasion to agree to withdraw a communication at the request of its author. It stressed, however, that this could not serve as a precedent for automatically granting such requests. The Committee reserves the right to check that the author has not come under any pressure. In such cases, the withdrawal must be regarded as a friendly solution within the meaning of paragraph 14(k) of 104 EX/Decision 3.3.

## **29. Fresh allegations justify the re-examination of a communication declared inadmissible**

The Committee’s decisions, in particular those declaring a communication inadmissible, are final. Nevertheless, the Committee does not refuse to re-examine a communication previously declared inadmissible if new facts relating to it are brought to its notice. In that event, the Secretariat must ask the author to fill out a new form.

**30. Changes in the circumstances under which a communication had been submitted**

If a number of circumstances that were relevant when the communication was submitted have changed in the meantime, the Committee has decided to suspend consideration of the communication in its present formulation.

**31. The Committee strikes from its list cases of alleged violations of human rights concerning persons whose death has been proved, in view of the fact that its intervention could have no result**

**32. A government is normally responsible for the safety of its citizens and of all those under its jurisdiction**

During the examination of communications relating to a period of disturbance in which the government concerned was not able to control a situation, the question has arisen of whether the alleged violations could be imputed to the government concerned. The Committee has not been unconcerned by such situations and has considered that, “without taking any decision having the force of a rule (...), a government is normally responsible for the safety of its citizens and of all those under its jurisdiction”.

**33. The Committee is the only subsidiary body of the Executive Board empowered to take its own decisions (the others restricting themselves to making recommendations to the Board)**

[para. 16]

Although the Executive Board can modify neither the decisions nor the narrative part of the Committee’s report, Members of the Board can nevertheless comment on the Committee’s report and ensure that the position of the representatives of the governments concerned is reflected accurately in the minutes of the Board session. The Executive Board takes note and may or may not endorse the decisions contained in the Committee’s report, regardless of whether or not they are intended to have effect. If it disagrees with a decision by the Committee it can request it to reconsider the case.

**34. Questions**

[para. 10 (b), 17 and 18]

The Committee considered that :

(a) the sources of information for the purpose of deciding whether to describe a communication as a “question” would be the individual communications received by the Organization and such relevant information as the Director-General might provide, either at the request of the Committee or on his own initiative ;

(b) the decision as to the designation of a communication as a “question” would be taken by the Committee only after a full examination of the substance of the communication, and then only if it was not possible to reach the friendly solution contemplated in paragraph 14(k) of 104 EX/Decision 3.3 ;

(c) it was for the Executive Board to decide whether or not to examine in public meetings any “question” forwarded to it by the Committee, but that in any event the Committee should be extremely

cautious before deciding to forward a matter as a “question” to the Board and should do so only as a last resort.

Consequently, the Committee has always stressed the need to submit communications referring by name to individual cases.

### **35. Statistics on the procedure**

At the 171st session of the Executive Board, the Committee decided, while recalling the principle of confidentiality which dominated the entire 104 EX/Decision 3.3 procedure, that the private documents of the Committee should be published or made accessible to the public after a period of 20 years, as provided for by Rule 29, paragraph 4, of the Rules of Procedure of the Executive Board, in order to give a higher profile to the Committee’s achievements.

### ANNEX III

## STANDARD LETTER SENT BY THE DIRECTOR OF THE OFFICE OF INTERNATIONAL STANDARDS AND LEGAL AFFAIRS TO THE AUTHORS OF COMMUNICATIONS EXAMINED UNDER 104 EX/DECISION 3.3

### CONFIDENTIAL

...

On behalf of the Director-General, I acknowledge receipt of your letter of ... alleging violations of human rights. In so far as your communication concerns human rights falling within UNESCO's competence in the fields of education, science, culture or communication, it can be examined under the procedure approved by the Executive Board of UNESCO on 26 April 1978 in 104 EX/Decision 3.3, a copy of which is attached for your information<sup>1</sup>.

It must be stressed that in no case is UNESCO an international court nor can it become one. The rights falling within UNESCO's spheres of competence are essentially the following:

- the right to education (Article 26 of the Universal Declaration of Human Rights);
- the right to share in scientific advancement (Article 27);
- the right to participate freely in cultural life (Article 27);
- the right to information, including freedom of opinion and expression (Article 19).

These rights may imply the exercise of others, the most noteworthy of which are set out below:

- the right to freedom of thought, conscience and religion (Article 18);
- the right to seek, receive and impart information and ideas through any media and regardless of frontiers (Article 19);
- the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production (Article 27);
- the right to freedom of assembly and association (Article 20) for the purposes of activities connected with education, science, culture and information.

In accordance with 104 EX/Decision 3.3, I wish to draw your attention to the conditions governing admissibility, which must be met before UNESCO can take action on your communication. They are listed in paragraph 14(a) of 104 EX/Decision 3.3. In order to enable the Director-General to complete the file on your communication, you are invited to fill in the enclosed form<sup>2</sup> and to return it to UNESCO, duly signed by yourself, as soon as possible.

The allegations should be set out in a concise statement, specifying which of the human rights is/are considered to have been violated and which of UNESCO's fields of competence is/are concerned. The date of the decisions complained of and the authority which took them should be clearly indicated, including, in particular, whatever legal remedies have been used (for instance, recourse to the courts in the country concerned) and the results of such action. There should also

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<sup>1</sup> This decision is reproduced in Annex I.

<sup>2</sup> The form is reproduced in Annex IV.

be an indication as to whether another international procedure has been used and, if so, before what body, the date on which the matter was referred to it and any results of this procedure.

You will notice that you are asked whether you have any objection to your name being divulged and to your communication being brought to the notice of the UNESCO Executive Board Committee on Conventions and Recommendations, after it has been transmitted to the government concerned. Failing an affirmative answer from you on this point, no action on your communication can be taken by UNESCO under the aforementioned decision.

Yours faithfully,

Director  
Office of International Standards  
and Legal Affairs

**ANNEX IV**

**UNESCO**

**CONFIDENTIAL**

**UNESCO**

**FORM FOR COMMUNICATIONS CONCERNING  
HUMAN RIGHTS TO BE SUBMITTED TO UNESCO**

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**For UNESCO use only:**

Number of communication:

Date of communication:

Date of dispatch of this form:

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**To be filled in by the author of the communication:**

**I. INFORMATION CONCERNING THE AUTHOR**

Name:

First name(s):

Nationality:

Profession:

Date and place of birth:

Present address:

Address to be used for correspondence (if other than the present address)

Indicate, by ticking the appropriate box, in what capacity you are acting:

victim of the violation or violations described below

representative of the victim or victims of the violations described below

person, group of persons or non-governmental organization with reliable knowledge of the violations described below

In another capacity. Specify



**II. INFORMATION CONCERNING THE VICTIM OR VICTIMS OF THE ALLEGED VIOLATIONS\***

If the author is the victim, tick here and pass directly to Part III.

**Give the following particulars for each victim, adding as many pages as necessary.**

Name:

First name(s):

Nationality:

Profession:

Date and place of birth:

Present address or whereabouts:

**III. INFORMATION CONCERNING THE ALLEGED FACTS**

**Name of the country considered by the author to be responsible for the alleged violation.**

**Human rights allegedly violated (refer, if possible, to the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights).**

**Connection between the alleged violation and education, science, culture or information.**

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\*N.B. This information is essential in cases where the communication concerns one or more individuals and specific cases of violation of human rights.

**Facts of the claim.**

**IV. INFORMATION CONCERNING MEANS OF REDRESS USED**

**What steps have been taken to exhaust domestic remedies (recourse to the courts or other public authorities), by whom, when and with what results?**

**Has the matter been submitted to another international authority concerned with protection of human rights? If so, when and with what results?**

**V. PURPOSE AND AIM OF THIS COMMUNICATION**

**VI. DECLARATION BY THE AUTHOR**

Does the author agree to his communication being examined in accordance with the procedure approved by the Executive Board of UNESCO in 104 EX/Decision 3.3 and, in particular, is he willing for his name to be divulged and for the communication to be transmitted to the government concerned and brought to the notice of the UNESCO Executive Board Committee on Conventions and Recommendations?

Yes

No

Date:

Name, first name

**Signature of author:**

## ANNEX V

### THEMATIC LIST OF WORDING USED IN THE DECISIONS OF THE COMMITTEE ON CONVENTIONS AND RECOMMENDATIONS

#### INTRODUCTION

To facilitate decision-making by the Committee during the examination of communications, a list of wording used by the Committee is given below. For each situation, significant examples are given of the wording used in the past by the Committee in its decisions. Slight variations introduced by the Committee according to circumstances are also indicated.

#### I. COOPERATION OF THE GOVERNMENT CONCERNED WITH THE COMMITTEE

##### A. **Examples of wording used by the Committee in situations in which the government concerned is cooperating with the Committee. The government has replied to the allegations of the author and has accepted the Committee's invitation to send a representative to attend the Committee's meetings**

1. The Committee decided to thank the representative of the government concerned for his attendance and cooperation (147 EX/3 PRIV., para. 16).
2. The Committee decided to thank the representative of the government concerned for his attendance and his exemplary cooperation (131 EX/3 PRIV., para. 129).
3. The Committee decided to thank the representative of the government concerned for his attendance, cooperation and the information provided (146 EX/3 PRIV., para. 40).
4. The Committee decided to thank the government concerned for its spirit of cooperation in sending a representative to the Committee to enter into a dialogue (125 EX/3 PRIV., para. 15; 152 EX/3 PRIV., para. 75).
5. The Committee decided to express its appreciation for the attendance at the Committee of the Ambassador, Permanent Delegate of ... to UNESCO, the representative of the government concerned (154 EX/3 PRIV., para. 114).
6. The Committee decided to take note of the information which the government concerned had kindly supplied by letter and to thank its representative for his further clarifications (130 EX/3 PRIV., para. 70).
7. The Committee decided to note with interest the very detailed information provided by the representative of the government concerned, and the very full replies he gave to the many questions raised by members of the Committee (119 EX/35 PRIV., para. 185).
8. The Committee decided to take note of the statements by the representative of the government (137 EX/3 PRIV., para. 60).
9. The Committee decided to take note of the statements of the government concerned (117 EX/18 PRIV., para. 159).
10. The Committee decided to thank the representative of the government concerned for his attendance and cooperation, which reflected a significant change in the government's assessment

of the Committee's competence in respect of human rights, and to express the wish that the dialogue thus initiated might continue (139 EX/3 PRIV., para. 180).

11. The Committee decided to thank the representative of the government concerned for his attendance and cooperation, which continued to reflect a growing recognition by the government of the Committee's competence in respect of human rights, and to express the wish that the dialogue might continue (140 EX/3 PRIV., para. 128).

**B. Examples of wording used by the Committee in situations in which the government concerned has transmitted information in writing, but has not replied to the Committee's invitation to send a representative to attend its meetings**

12. The Committee decided to thank the government concerned for the information it had provided by letter, while regretting that it had not sent a representative (130 EX/3 PRIV., para. 120).

13. The Committee decided to thank the government concerned for its letter, while again expressing its regret that it had once again been denied the benefit of the attendance of a representative of the government concerned, despite the wishes repeatedly expressed by the Committee (154 EX/3 PRIV., para. 138).

14. The Committee decided to express regret that the government concerned did not send a representative, and to take note of its letter of ... (147 EX/3 PRIV., para. 170).

15. The Committee decided to thank the representative of the government concerned for the very full information it had provided (142 EX/3 PRIV., para. 101).

16. The Committee decided to express its satisfaction at the information received (131 EX/3 PRIV., para. 144).

17. The Committee decided to thank the government concerned for its letter of ... (146 EX/3 PRIV., para. 222).

**II. FAILURE OF THE GOVERNMENT CONCERNED TO COOPERATE WITH THE COMMITTEE**

**A. Examples of wording used by the Committee in situations in which the government concerned has not transmitted any information in writing and has not replied to the Committee's invitation**

18. The Committee decided to express regret that it continued to be denied the presence and cooperation of a representative of the government concerned (144 EX/3 PRIV., para. 165).

19. The Committee decided to express its deep regret that it had once again been denied the benefit of the attendance of a representative of the government concerned, despite the wishes repeatedly expressed by the Committee, a subsidiary organ of the Executive Board (152 EX/3 PRIV., para. 128).

20. The Committee decided to express its regret that no representative of that government had been able to attend its meeting, for that would have helped to initiate a fruitful dialogue (120 EX/15 PRIV., para. 109).

21. The Committee decided to express regret that the representative of the government concerned had not sent a representative (146 EX/3 PRIV., para. 144).

22. The Committee decided to express regret that the government concerned had not sent a representative (147 EX/3 PRIV., para. 97).

**B. Examples of wording used by the Committee in situations in which the government concerned has not sent any information by letter and has repeatedly failed to reply to the Committee's invitation**

(i) The Committee expresses its regret

23. The Committee decided to express its deep regret concerning this refusal to cooperate on the part of the government concerned (120 EX/15 PRIV., para. 208).

24. The Committee decided to express regret that the government concerned had again not seen fit to send a representative to the session (136 EX/3 PRIV., para. 15).

25. The Committee decided to express deep regret that it continued to be denied the presence and cooperation of a representative of the government concerned (146 EX/3 PRIV., para. 187).

26. The Committee decided deeply to deplore the persistent failure of the government concerned to be represented or to communicate any information (132 EX/3 PRIV., para. 177).

27. The Committee decided to deplore the persistent lack of interest shown by the government concerned in this communication (135 EX/3 PRIV., para. 41).

28. The Committee decided to deplore deeply the persistent failure of the government concerned to be represented or to communicate any information (147 EX/3 PRIV., para. 135).

(ii) The Committee urges the government concerned to cooperate

29. The Committee decided to urge the government concerned to cooperate with the Committee (135 EX/3 PRIV., para. 65).

30. The Committee decided once again to express regret that no representative of the government concerned had been present and again to urge the government to cooperate with the Committee, in particular by responding to the requests for information that the Committee had made to it at its previous sessions (136 EX/3 PRIV., para. 208).

(iii) The Committee stresses the importance of the participation of the government concerned

31. The Committee decided to reiterate to the government concerned that its failure to participate in the work of the Committee continued to cause the Committee great concern, for it considered that it was of the first importance to secure the active cooperation of the government in question in regard to its examination and analysis of this case (116 EX/48 PRIV., para. 285).

32. The Committee decided to request the Secretariat to call the attention of the authorities of the government concerned to the importance attached by the Committee to the presence of a representative of the government concerned by a communication at the meeting at which that communication would be examined so that, in accordance with 104 EX/Decision 3.3, paragraph 14(e), an open dialogue might be established with a view to achieving a friendly solution designed to advance the promotion of human rights (117 EX/18 PRIV., para. 92).

33. The Committee decided to draw the attention of the government concerned to the importance attached by the Committee to the attendance of a government representative (146 EX/3 PRIV., para. 137).

34. The Committee decided to reiterate the importance attached by the Committee to the attendance of a government representative (147 EX/3 PRIV., para. 97).

- (iv) The Committee reminds the government concerned that the Committee is not a court of law

35. The Committee decided to point out to the government concerned that the Committee was not in any way trying to set itself up as an international supreme court, but was merely attempting, for purely humanitarian reasons, to establish a dialogue with the governments concerned in order to consider with them what might be done on behalf of alleged victims in the event of their having suffered violations of human rights in UNESCO's fields of competence (135 EX/3 PRIV., para. 156).

36. The Committee decided to remind the government concerned that the Committee had no ambition whatsoever to assume the authority of an international supreme court, but was simply endeavouring, for purely humanitarian reasons, to initiate a dialogue with the governments concerned in order to discuss what might be done on behalf of alleged victims in cases in which their human rights might have been violated in UNESCO's fields of competence (136 EX/3 PRIV., para. 208; 152 EX/3 PRIV., para. 139).

37. The Committee decided to recall that the Committee in no way set itself up as an international court of law, but that its aim was to promote human rights relating to UNESCO's fields of competence by seeking a friendly solution to specific human cases (134 EX/3 PRIV., para. 207).

- (v) The Committee requests the Chairperson of the Committee or the Director-General to use their good offices

38. The Committee decided to ask its Chairperson to attempt to establish dialogue with the authorities of the country concerned (124 EX/3 PRIV., para. 168).

39. The Committee decided to express its regret that it had been unable to benefit from the presence of a representative of the government concerned, and to request the Chairperson to send a letter in those terms to the permanent delegation of the government concerned (126 EX/3 PRIV., para. 203).

40. The Committee decided to express its regret at the continued failure of any representative of the government concerned to attend its meetings, despite the representations made to that end by its Chairperson at its request, to which there had been no response from the government (130 EX/3 PRIV., para. 53).

41. The Committee decided to request its Chairperson to pursue his efforts with the delegation of the government concerned in order to convey to the authorities of that country the importance attached by the Committee to the attendance of a representative of the government concerned by a communication (134 EX/3 PRIV., para. 75).

42. The Committee decided to ask its Chairperson to use his good offices with the ambassador of the country concerned (141 EX/3 PRIV., para. 181).

43. The Committee decided to request its Chairperson, given the urgency of the situation, to make representations to the Permanent Delegation of ... to UNESCO with a view to securing the cooperation of the government concerned, having regard to international human rights instruments (150 EX/3 PRIV., para. 88).

44. The Committee decided to request the Chairperson to make contact with the government concerned with a view to obtaining additional information on the alleged victim (144 EX/3 PRIV., para. 165).

45. The Committee decided to request the Director-General, in pursuance of paragraph 14(k) of 104 EX/Decision 3.3, to use his good offices to obtain greater collaboration in this matter from the government concerned (136 EX/3 PRIV., para. 161).

46. The Committee decided to request the Executive Board to ask the Director-General to use his good offices with the government concerned in order to secure new information ... on the alleged victim (121 EX/46 PRIV., para. 224).

47. The Committee decided to request the Director-General to continue his efforts to ensure that the government concerned cooperated in the case (149 EX/3 PRIV., para. 158).

48. The Committee decided to request the Director-General to write to the Head of Government concerned in order to draw his attention to the importance the Committee attaches to the attendance of a representative of the government concerned (152 EX/3 PRIV., para. 128).

(vi) The Committee may declare a communication admissible

49. The Committee decided to inform the government concerned that owing to the lack of adequate information, the Committee would be obliged at its next session to declare the communication admissible (131 EX/3 PRIV., para. 167).

50. The Committee decided that, failing receipt of the relevant information requested, it would be compelled at its next session to declare the communication admissible (127 EX/3 PRIV., para. 83).

51. The Committee decided to express its regret at having been denied the benefit of the attendance of a representative of the government concerned and at having received no information from it on this case and to declare the communication admissible (154 EX/3 PRIV., para. 192).

52. The Committee decided to express once again its regret that a representative of the government concerned had not been present and that it had received no information whatsoever, and to declare the communication admissible (131 EX/3 PRIV., para. 74).

53. The Committee decided to express regret that it continued to be denied the presence of a representative of the government concerned, and to declare this communication admissible (142 EX/3 PRIV., para. 139).

54. The Committee decided to declare the communication admissible, as the letter from the permanent delegation of the government concerned did not provide the information requested (131 EX/3 PRIV., para. 174).

(vii) The Committee decides to dispatch a mission of good offices

55. The Committee decided to request the Executive Board, after consultation with the government concerned and in agreement with it, to commission one of its members to visit ... and, with the assistance of the Director-General or his representative, to initiate discussions with the government concerned about the allegations made in the communications (120 EX/15 PRIV., para. 69).

(viii) On occasion, the Committee may consider submitting the communication to the Executive Board for public examination, in view of the persistent silence of the government concerned

56. The Committee decided to request the Secretariat to prepare a specific interim draft report for the Executive Board on this case (117 EX/18 PRIV., para. 207).

57. The Committee decided to ask the Secretariat to draw up a draft specific report for submission to the Executive Board in pursuance of paragraph 15 of 104 EX/Decision 3.3. This



draft, together with an appropriate recommendation, will be examined and adopted by the Committee at its next session after being transmitted in advance to the government concerned for its comments and observations (115 EX/28 PRIV., para. 419).

58. The Committee decided that, in the absence of effective participation by the representative of the government concerned at its next session, it would be bound to consider as established the facts alleged in the communication and consequently to submit to the Executive Board a specific report on the case in question (119 EX/35 PRIV., para. 134).

59. The Committee decided to recommend that the Executive Board, in accordance with 104 EX/Decision 3.3, paragraph 15, examine this communication in private meeting at its 157th session and to recommend also that the Board invite the representative of the government concerned in accordance with Rule 30, paragraph 3, of its Rules of Procedure (157 EX/3 PRIV., para. 115).

60. The Committee decided to request the Executive Board to examine this communication in the light of paragraph 16 of 104 EX/Decision 3.3 and to take further action as necessary (167 EX/PRIV., para. 274).

### **III. PRINCIPLE OF NON-INTERVENTION IN THE INTERNAL AFFAIRS OF STATES INVOKED BY THE GOVERNMENT CONCERNED**

#### **Examples of wording used by the Committee in situations in which the government concerned refers the Committee to the principle of non-intervention in a state's internal affairs:**

61. The Committee decided to point out that the principle of non-interference in the internal affairs of states did not absolve those states of the duties incumbent on them as a result of their accession to the international instruments relating to human rights (136 EX/3 PRIV., para. 208).

62. The Committee decided to recall the procedure laid down in 104 EX/Decision 3.3, which defines the framework within which communications alleging violations of human rights in the fields of competence of UNESCO shall be dealt with by the Committee (134 EX/3 PRIV., para. 47).

63. The Committee decided to draw the attention of the government concerned to the international instruments relating to human rights to which that country is a party, in particular the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights ... (135 EX/3 PRIV., para. 164).

64. The Committee decided to point out that respect for universally recognized fundamental human rights was a duty incumbent on the entire international community (139 EX/3 PRIV., para. 81).

65. The Committee decided to point out that the whole of the international community is duty bound to respect fundamental universally recognized human rights; that those fundamental rights, enshrined in particular in the Universal Declaration of Human Rights, include the right to "freedom of opinion and expression; that this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media"; and that the Universal Declaration of Human Rights admits only such limitations to the exercise of those rights as are determined by law, and then solely "for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare" (140 EX/3 PRIV., para. 133).

#### **IV. REQUESTS FOR FURTHER INFORMATION**

##### **A. Examples of wording used by the Committee in situations in which the Committee requires further information in order to continue its examination of a communication**

66. The Committee decided to suspend the examination of this communication until further information was received (116 EX/48 PRIV., para. 129).

67. The Committee decided to defer consideration of the admissibility of this communication until the next session, in anticipation of the additional information which the representative of the government concerned proposed to provide (116 EX/48 PRIV., para. 34).

##### **B. Examples of wording used by the Committee in situations in which the Committee is requesting the author of the communication to provide further information**

68. The Committee decided to ask the author of the communication if he had further information to transmit to the Committee (130 EX/3 PRIV., para. 166).

69. The Committee decided to invite the author of the communication to bring up to date the information contained in it, to the extent that the situation of certain alleged victims seems to have changed (130 EX/3 PRIV., para. 172).

70. The Committee decided that it was necessary ... to ask the author of the communication to provide additional information, bearing in mind all the points raised in the Committee's discussion (119 EX/35 PRIV., para. 185).

71. The Committee decided to ask the author of the communication whether the alleged victim had engaged in scientific activities and could therefore be considered to be a scientist (137 EX/3 PRIV., para. 95).

72. The Committee decided to invite its Secretariat to ask the author of the communication about the grounds for its allegations (136 EX/3 PRIV., para. 104).

73. The Committee decided to request the author of the communication to supply more detailed information concerning the allegations (149 EX/3 PRIV., para. 99).

##### **C. Examples of wording used by the Committee in situations in which the Committee is requesting further information from the government concerned**

###### **(i) Requests for general information**

74. The Committee decided to request the government concerned to communicate to the Committee its observations concerning the allegations contained in Communication No. ... (135 EX/3 PRIV., para. 72).

75. The Committee decided to urge the government concerned to provide additional information concerning the alleged victim (144 EX/3 PRIV., para. 165).

76. The Committee decided to repeat the request for information it had addressed to the government concerned and to which the government had not yet replied (137 EX/3 PRIV., para. 163).

###### **(ii) Requests for more specific information**

77. The Committee decided to request the government concerned to provide it with additional information on the allegations (130 EX/3 PRIV., para. 13).

78. The Committee decided to request the government concerned to provide it with more detailed information on the factual and legal bases for the alleged victim's conviction (131 EX/3 PRIV., para. 85).
79. The Committee decided to make an immediate appeal to the government concerned to provide detailed information, particularly concerning the state of health of the alleged victim (144 EX/3 PRIV., para. 89).
80. The Committee decided once again to urge strongly the government concerned to provide more specific information on the factual and legal grounds for the convictions of the alleged victims, the conditions of their detention and their state of health (135 EX/3 PRIV., para. 13).
81. The Committee decided to request the government concerned to provide it with further information: about the conditions of the alleged victim's detention and the place where he was being held; about his state of health; about the offence he was said to have committed, particularly whether in expressing his opinions he had advocated violence; about the nature of his detention (whether administrative or penal) (135 EX/3 PRIV., para. 80).
82. The Committee decided to ask the government concerned also to let it know if the alleged victim had acted violently or preached violence while expressing his political opinions (135 EX/3 PRIV., para. 19).
83. The Committee decided to repeat its request to the government for information regarding the precise reasons for the alleged victim's being convicted, in particular whether he had been found guilty of violence or incitement to violence (130 EX/3 PRIV., para. 120).
84. The Committee decided to ask the government concerned to be good enough to provide details regarding the reasons for the alleged victim's sentence, and, more especially, whether the "counter-revolutionary" activities imputed to him included incitement to violence, since it was the activity, which the alleged victim was accused of and not necessarily his profession, which was essential in determining the admissibility of the communication (130 EX/3 PRIV., para. 35).
85. The Committee decided to request the government concerned, in view of the extreme inadequacy of the information available on this case, to provide further particulars, firstly, regarding the precise grounds for the severe sentence passed on the alleged victim, and in particular as to whether he had simply made peaceful use of his right to freedom of expression or whether he had advocated violence, and, secondly, regarding the opportunities open to him to lodge an appeal (130 EX/3 PRIV., para. 135).
86. The Committee decided to request the government concerned to provide more precise information about the offence committed by the alleged victim and about the grounds of his sentence (145 EX/3 PRIV., para. 134).
87. The Committee decided to repeat its request for information particularly regarding the offence committed by the alleged victim and the grounds of his sentence (147 EX/3 PRIV., para. 105).
88. The Committee decided to request the government concerned to provide more detailed information on the alleged offence of the alleged victim, the sentence normally meted out for this offence and the domestic remedies available (130 EX/3 PRIV., para. 81).
89. The Committee decided to request the government concerned to provide the verdicts relating to this case in order to enable it to gain a better understanding of the situation (136 EX/3 PRIV., para. 77).
90. The Committee decided to request the government concerned to tell the Committee what steps had been taken to trace the alleged victim (135 EX/3 PRIV., para. 87).

91. The Committee decided also to request information from the government regarding the stage reached in the lawsuit still in progress (130 EX/3 PRIV., para. 120).

92. The Committee decided to request the government concerned to keep it informed of the final decisions taken by the military and civilian authorities with regard to the alleged victim (131 EX/3 PRIV., para. 21).

93. The Committee decided to request the government concerned to inform the Committee of the results of the recourse procedure concerning the alleged victim (145 EX/3 PRIV., para. 68).

**D. Examples of wording used by the Committee in situations in which the Committee is requesting further information from other international or regional human rights bodies (United Nations bodies, the International Committee of the Red Cross, the Inter-American Commission on Human Rights)**

94. The Committee decided to ask the Secretariat to seek more concrete information from other organs of the United Nations regarding this case (144 EX/3 PRIV., para. 165).

95. The Committee decided to request the Secretariat to make contact again with the United Nations Working Group on Enforced or Involuntary Disappearances in order to obtain any information it might have received (136 EX/3 PRIV., para. 104).

96. The Committee decided to request the Secretariat to ask the United Nations Working Group on Enforced or Involuntary Disappearances to inform it of the reasons for its decision to close the file on this case (135 EX/3 PRIV., para. 87).

97. The Committee decided to request its Secretariat to approach the United Nations Commission on Human Rights<sup>1</sup> in order to obtain information on the current situation in the country concerned (136 EX/3 PRIV., para. 87).

98. The Committee decided to request the Secretariat to obtain from the United Nations Commission on Human Rights<sup>2</sup> any available information concerning these allegedly missing persons (130 EX/3 PRIV., para. 166).

99. The Committee decided to instruct the Secretariat to contact the International Committee of the Red Cross to ask it whether, at the Committee's request, it could investigate through its regional delegate the disappearance of the alleged victim (116 EX/48 PRIV., para. 81).

100. The Committee decided to invite the Secretariat once more to ask the International Committee of the Red Cross to make representations through its delegations in the countries concerned in an attempt to retrace the alleged victim's itinerary in those countries prior to his disappearance (130 EX/3 PRIV., para. 53).

101. The Committee decided to request the Secretariat to collect all possible information from the Inter-American Commission on Human Rights, to which the case had also been submitted (124 EX/3 PRIV., para. 84).

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<sup>1</sup> Pursuant to resolution A/RES/60/251 adopted on 3 April 2006 by the United Nations General Assembly, the Commission on Human Rights has been replaced by the Human Rights Council.

<sup>2</sup> Idem.

## **V. PERSISTENT FAILURE TO REPLY TO REQUESTS FOR INFORMATION**

### **A. Examples of wording used by the Committee in situations in which the Committee has not received from the author of the communication information for which it has made repeated requests**

102. The Committee decided to give the author one last opportunity to reply, if he so wished, and to re-examine the case at the next session only in the event of the author providing this reply (116 EX/48 PRIV., para. 306).

103. The Committee decided to invite its Secretariat to make one last attempt to contact the author of the communication, who had remained silent since ... despite various promptings by the Committee, and to inform her that, failing some response on her part, the Committee would be compelled to strike the communication from its list (135 EX/3 PRIV., para. 41).

104. The Committee decided that, although the authors of the communication had been invited by registered letter to enter into contact with the Committee at four of its sessions, but had never done so, under those circumstances, it was not possible for it to continue to consider the communication, which should consequently be struck off its list (120 EX/15 PRIV., para. 215).

105. The Committee decided to strike the communication from its list, on the grounds of the continued silence of the author ... (141 EX/3 PRIV., para. 126).

106. The Committee decided to note that the author of the communication had not replied to the requests of the Committee and to strike this communication from its list (154 EX/3 PRIV., para. 22).

107. The Committee decided to delete the case of the alleged victim from its list since no new information concerning him had been received by the Committee for a long time (122 EX/21 PRIV., para. 111).

108. The Committee decided to strike these communications from its list in view of the fact that their authors had provided no further information for several years, it being understood that new communications may be submitted to the Committee if the authors consider that it is necessary to do so (157 EX/3 PRIV., para. 133).

### **B. Examples of wording used by the Committee in situations in which, following repeated requests for further information made over very many sessions, the Committee finds itself unable to continue consideration of the communication (the case is put “on hold” pending the receipt of new information)**

109. The Committee decided to suspend consideration of the communication and to resume it only when it had received new information (134 EX/3 PRIV., para. 172).

110. The Committee decided to resume consideration of this communication as soon as new information was made available to it (142 EX/3 PRIV., para. 15).

111. The Committee decided to resume consideration of the admissibility of these communications at one of its forthcoming sessions, once new facts had been communicated to the Director-General (115 EX/28 PRIV., para. 262).

112. The Committee decided to note with satisfaction the information provided by the representative of the government concerned, and to keep the communication on its list, it being understood that it would be put before the Committee again only if new information were provided either by the author of the communication or by the government concerned (117 EX/18 PRIV., para. 148).

113. The Committee decided to keep this communication on its list, but to resume consideration of it only at such time as new information came into its possession which would enable it to continue with its work (139 EX/3 PRIV., para. 123).

## **VI. ASSERTION BY THE COMMITTEE OF ITS COMPETENCE WITH REGARD TO A COMMUNICATION**

**Examples of wording used by the Committee in situations in which, before ruling on the admissibility of a communication, the Committee asserts its competence with regard to that communication**

114. The Committee decided to assert its competence in principle with regard to this communication (144 EX/3 PRIV., para. 89).

115. The Committee decided on the basis of the facts at its disposal, to assert its competence to examine this communication (132 EX/3 PRIV., para. 80).

116. The Committee decided to reaffirm its competence regarding this communication, given the information currently at its disposal (146 EX/3 PRIV., para. 100).

## **VII. DECLARATION BY THE COMMITTEE OF THE INADMISSIBILITY OF A COMMUNICATION**

**Examples of wording used by the Committee in situations in which it declares a communication inadmissible**

(i) The Committee decides to strike the communication from its list

117. The Committee decided to strike this communication from its list as not falling within the field of competence of UNESCO, in accordance with paragraph 14(a)(iii) of 104 EX/Decision 3.3 (135 EX/3 PRIV., para. 126).

118. The Committee decided to declare the communication inadmissible since it did not fall within UNESCO's fields of competence as required under paragraph 14(a)(vi) of 104 EX/Decision 3.3 (161 EX/3 PRIV., para. 107).

119. The Committee decided to strike this communication from its list as manifestly ill-founded in the meaning of paragraph 14(a)(v) of 104 EX/Decision 3.3 (135 EX/3 PRIV., para. 31; 137 EX/3 PRIV., para. 125).

120. The Committee decided to strike the communication from its list, on the grounds that it was ill-founded (137 EX/3 PRIV., para. 125).

121. The Committee decided to declare the communication inadmissible in accordance with 104 EX/Decision 3.3, paragraph 14(a)(vii), on the grounds that it was based exclusively on information published in the press (130 EX/3 PRIV., para. 27).

122. The Committee decided to declare the communication inadmissible as being incompatible with the Organization's principles, ill-founded and offensive, by virtue of paragraph 14(a)(iv), (v) and (vi) of 104 EX/Decision 3.3 (127 EX/3 PRIV., para. 124).

123. The Committee decided to declare the communication inadmissible, a communication dealing with these two cases having been previously declared inadmissible by the Committee at its previous session and there being no new elements to justify its re-examination (129 EX/3 PRIV., para. 18).

(ii) The Committee decides to strike the communication from its list, but, in view of the particular gravity of the case, wishes to express its concern

124. The Committee decided to declare the communication inadmissible but, notwithstanding, to request the government concerned to keep the Committee informed of any further developments which might occur in this case (116 EX/48 PRIV., para. 154).

125. The Committee decided to express its grave preoccupation given the serious violation of human rights to which the communication attests, but nevertheless to strike it from its list, as not falling within UNESCO's fields of competence as required by 104 EX/Decision 3.3 (137 EX/3 PRIV., para. 90).

126. The Committee decided to declare the communication inadmissible in application of paragraph 14(a)(iii) of 104 EX/Decision 3.3 on the grounds that, given the information currently available, it did not fall within UNESCO's areas of competence, and to appeal to the authorities to show clemency by commuting the death penalty (141 EX/3 PRIV., para. 193).

## **VIII. FAILURE TO RESPECT THE PRINCIPLE OF CONFIDENTIALITY**

### **Examples of wording used by the Committee in situations in which, in its consideration of a communication, the Committee finds that the author of the communication has failed to observe the principle of confidentiality of procedure**

127. The Committee decided to express its regrets and its deep concern that the principle of confidentiality had not been respected, and to strike this communication from its list (146 EX/3 PRIV., para. 112).

128. The Committee decided to ask the Secretariat to ensure that the letter sent to the authors of communications clearly explained the need for confidentiality and the consequences of breaches thereof (114 EX/38 PRIV., para. 650).

129. The Committee decided to request the Secretariat to draw the attention of the author to the need to preserve the confidentiality of any communication submitted to UNESCO under the procedure laid down in 104 EX/Decision 3.3 (159 EX/3 PRIV., para. 16).

## **IX. LEGAL PROCEEDINGS IN PROCESS**

### **Examples of wording used by the Committee in situations in which legal proceedings against the alleged victim are still under way**

130. The Committee decided to note the fact that legal proceedings involving the alleged victim were in progress, and accordingly, to defer examination of this communication to the next session of the Executive Board (141 EX/3 PRIV., para. 110).

131. The Committee decided to take note of the fact that the alleged victim's case was still before the Supreme Court, and to resume consideration of this communication at its next session (144 EX/3 PRIV., para. 124).

132. The Committee decided to suspend its consideration of this communication, awaiting the pronouncement of the Supreme Court (129 EX/3 PRIV., para. 108).

133. The Committee decided to keep the communication on its list pending the result of the current judicial investigation (132 EX/3 PRIV., para. 43).

134. The Committee decided to keep this communication on its list pending the result of the current judicial proceedings (160 EX/3 PRIV., para. 120).

135. The Committee decided to keep the communication on its list while awaiting the results of the current court proceedings (149 EX/3 PRIV., para. 18).

136. The Committee decided to keep the communication on its list until additional information had been received from the government concerned about the current proceedings against the alleged victim (156 EX/3 PRIV., para. 107).

137. The Committee decided in view of the judicial proceedings still under way, to comply with the request made by the government concerned and to postpone consideration of the communication until its next session (127 EX/3 PRIV., para. 50).

138. The Committee decided to note that the trial of the alleged victim was in progress and to express the wish that it would be held in a climate of understanding (154 EX/3 PRIV., para. 114).

## **X. PARTICULARLY ALARMING STATE OF HEALTH OF THE ALLEGED VICTIM**

### **Examples of wording used by the Committee in situations in which the state of health of the alleged victim is a matter for concern**

#### **(i) The Committee expresses its concern**

139. The Committee decided to express to the government in question its deep concern at the contradictory and disquieting, not to say tragic, information regarding the health of the alleged victim (132 EX/3 PRIV., para. 35).

140. The Committee decided to express to the government in question its deep concern about this case (145 EX/3 PRIV., para. 77).

141. The Committee decided to express to the government concerned its deep concern at the alarming state of health of the alleged victim (161 EX/3 PRIV., para. 293).

142. The Committee decided to express to the government concerned its deep concern regarding the state of health of the alleged victim and to request it to allow him to receive appropriate medical treatment (155 EX/3 PRIV., para. 47).

143. The Committee decided to voice its concern at the state of health of the alleged victims and consequently to request the government concerned to allow an independent medical team to examine them (154 EX/3 PRIV., para. 138).

144. The Committee decided to express to the government concerned its concern at the state of health of the alleged victim and to request it to allow him to receive additional specialized and urgent medical treatment (169 EX/3 PRIV., para. 92).

#### **(ii) The Committee appeals for clemency<sup>3</sup> for the alleged victim**

145. The Committee decided to appeal for clemency on behalf of the alleged victim, particularly on account of his state of health (129 EX/3 PRIV., para. 102).

146. The Committee decided to make a fresh appeal for clemency on behalf of the alleged victim, particularly in view of his poor state of health (130 EX/3 PRIV., para. 81).

147. The Committee decided to reiterate its appeal for clemency with a view to the release of the alleged victim on humanitarian grounds, particularly in view of his poor health (145 EX/3 PRIV., para. 163).

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<sup>3</sup> At the 144th session, it was recalled that an “appeal for clemency” was a humanitarian step in keeping with the spirit and the letter of 104 EX/Decision 3.3. Some members of the Committee pointed out that an appeal for clemency, which was not the same thing as seeking a pardon, was much more than a purely legal matter, and reflected everyone’s concern for respect for the individual, for the human being (144 EX/3 PRIV., para. 88). Other members felt that an appeal for clemency constituted recognition of the alleged victim’s guilt. (The Committee began to make appeals for clemency at the 124th session of the Executive Board, in May 1986.)



148. The Committee decided to appeal for clemency with a view to obtaining the release of the alleged victim on humanitarian grounds, particularly in view of his poor state of health (154 EX/3 PRIV., para. 146).

149. The Committee decided to appeal to the government concerned on behalf of the alleged victim with a view to his release on humanitarian grounds in view of his age and state of health (157 EX/3 PRIV., para. 66).

150. The Committee decided to renew its appeal for clemency with a view to securing the immediate early release of the alleged victim, having regard to the gravity of her state of health (150 EX/3 PRIV., para. 81).

151. The Committee decided to appeal on humanitarian grounds to the government concerned to ensure that everything be done to safeguard the alleged victim's health (117 EX/18 PRIV., para. 155).

152. The Committee decided to appeal to the government concerned to treat the alleged victim humanely having regard to his state of health (147 EX/3 PRIV., para. 97).

153. The Committee decided to request the government concerned to continue treating the alleged victim humanely and provide him with the medical treatment necessitated by his state of health (160 EX/3 PRIV., para. 140).

154. The Committee decided to urge the government concerned to kindly treat the alleged victim humanely, having regard to his state of health, and to allow his own doctor to visit him (150 EX/3 PRIV., para. 88).

155. The Committee decided to appeal to the authorities concerned for the alleged victim to be transferred to a medical centre in keeping with the serious state of his health and for him to be granted an early release (154 EX/3 PRIV., para. 157).

(iii) The Committee requests the Chairperson of the Committee or the Director-General to use his good offices

156. The Committee decided to issue an urgent appeal to the government concerned to ensure that the alleged victim was treated with the clemency warranted by his critical state of health, and to request its Chairperson to make personal representations to the highest authorities and to the representative of the country concerned on the Executive Board (130 EX/3 PRIV., para. 108).

157. The Committee decided to ask the Executive Board to request the Director-General to make such representations as he might deem appropriate, having regard to the concern expressed by the members of the Committee as regards the health and conditions of detention of the alleged victim (117 EX/18 PRIV., para. 99).

## **XI. CONDITIONS OF CONFINEMENT AND VISITING RIGHTS**

### **Examples of wording used by the Committee in situations in which the conditions under which the alleged victim is being detained are difficult**

158. The Committee decided to request the government concerned to improve the conditions of confinement of the alleged victims, in particular by granting more frequent and extended visiting rights (151 EX/3 PRIV., para. 99).

159. The Committee decided to request the government concerned to improve the conditions under which the alleged victim was being detained and to authorize his family to visit him more frequently (154 EX/3 PRIV., para. 157).

160. The Committee decided to request the government concerned to grant extended visiting rights to the alleged victims (152 EX/3 PRIV., para. 128).

161. The Committee decided to request the government concerned to transfer the alleged victim to a penal institution closer to his family (176 EX/3 PRIV., para. 144).

162. The Committee decided to request the government concerned to improve the conditions of detention of the alleged victim until his release (177 EX/3 PRIV., para. 75).

## **XII. CHANGES IN THE POLITICAL SITUATION OF THE COUNTRY**

### **Examples of wording used by the Committee in situations in which the political situation of the country concerned has changed since action was first taken against the alleged victim**

- (i) The Committee requests the government concerned to review the case

163. The Committee decided once again to request the government concerned to review the case in the light of the changes that had occurred in the country and not in the light of the exceptional circumstances obtaining at the time of the events in question (136 EX/3 PRIV., para. 87).

- (ii) The Committee makes a fresh appeal for clemency for the alleged victim

164. The Committee decided to renew its appeal for clemency in the light of the changes that have taken place in the country's political situation (137 EX/3 PRIV., para. 84).

165. The Committee decided to appeal again for clemency to the authorities, asking for a remission of sentence and the release of the alleged victim, in view of developments in the political situation of the country (139 EX/3 PRIV., para. 133).

166. The Committee decided to express the hope that the efforts currently being undertaken by the government concerned with regard to human rights might help to improve the situation of the alleged victim (157 EX/3 PRIV., para. 66).

- (iii) The Committee decides to strike the communication from its list

167. The Committee decided to cease examination of this communication and to strike it from its list, in view of the return of democracy and the rule of law to the country concerned, the efforts of the government concerned to elucidate the case of the alleged victim and the fact that the Working Group of the Commission on Human Rights was continuing its examination of the case (129 EX/3 PRIV., para. 165).

168. The Committee decided in view of the favourable development of the human rights situation in the country, especially as regards human rights within UNESCO's fields of competence, to cease examination of the communication (116 EX/48 PRIV., para. 277).

## **XIII. PARTICULARLY DIFFICULT CASES: NO TRIAL, HARSHNESS OF THE SENTENCE PASSED ON THE ALLEGED VICTIM**

### **Examples of wording used by the Committee in situations in which the alleged victim has received a particularly harsh sentence or has been detained without trial**

- (i) The Committee expresses its concern with regard to the communication

169. The Committee decided to express to the government its grave concern about the extreme length of the alleged victim's detention, apparently without trial, and at the particularly disquieting information regarding his state of health (135 EX/3 PRIV., para. 172).

170. The Committee decided to express to the government concerned its concern about the length of the alleged victim's detention without trial (155 EX/3 PRIV., para. 47).

171. The Committee decided to reiterate its humanitarian concern for the alleged victim (120 EX/15 PRIV., para. 112).

(ii) The Committee appeals for clemency

172. The Committee decided to appeal for clemency<sup>4</sup> to be shown to the alleged victim on account of the harshness of his sentence (131 EX/3 PRIV., para. 104).

#### **XIV. REQUEST BY THE COMMITTEE FOR THE RELEASE OF THE ALLEGED VICTIM**

##### **Examples of wording used by the Committee in situations in which the Committee is attempting to obtain the release of the alleged victim**

(i) The Committee requests a release

173. The Committee decided to request the release of the alleged victim for humanitarian reasons, which are the major concern of the Committee (131 EX/3 PRIV., para. 74).

174. The Committee decided to request the immediate release of the alleged victim (145 EX/3 PRIV., para. 122).

(ii) The Committee appeals for clemency

175. The Committee decided to appeal for clemency with a view to the immediate release of the alleged victim (141 EX/3 PRIV., para. 181).

176. The Committee decided to renew its appeal for clemency with a view to the release of the alleged victims (147 EX/3 PRIV., para. 70).

177. The Committee decided to launch a pressing appeal for clemency with a view to the release of the alleged victim (150 EX/3 PRIV., para. 88).

178. The Committee decided to appeal to the government concerned for clemency for the alleged victim with a view to her release on humanitarian grounds, especially as she has already served more than half of her sentence (160 EX/3 PRIV., para. 130).

179. The Committee decided to renew its appeal for clemency in order that the alleged victim might be granted an early release in view of his advanced age, his exemplary conduct in detention and the fact that he had already served the greater part of his long sentence (135 EX/3 PRIV., para. 50).

180. The Committee decided to make to the government concerned another urgent appeal for clemency for the alleged victim with a view to his immediate release on humanitarian grounds and in view of the fact that he has served half of his sentence (157 EX/3 PRIV., para. 115).

181. The Committee decided to make a further appeal for clemency for the alleged victim with a view to having her sentence reduced (154 EX/3 PRIV., para. 94).

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<sup>4</sup> On several occasions, in view of the fact that the sentence being served by the alleged victim had nearly expired, members of the Committee have been of the view that only an appeal for clemency involving an amnesty or a reduction of the sentence would still serve a useful purpose.

182. The Committee decided to appeal again for clemency to the authorities, asking for a remission of sentence for the person concerned, and for his release (135 EX/3 PRIV., para. 96).

183. The Committee decided to launch a fresh appeal for clemency in favour of the alleged victim, already held in administrative detention for over a year (130 EX/3 PRIV., para. 76).

184. The Committee decided to appeal again for clemency to be shown to the alleged victim, who had already been detained for almost 12 years (130 EX/3 PRIV., para. 142).

185. The Committee decided to make a humanitarian appeal on behalf of the alleged victim (131 EX/3 PRIV., para. 85).

186. The Committee decided to reiterate its appeal, on humanitarian grounds, to the government concerned for a solution to the case in question (122 EX/21 PRIV., para. 102).

(iii) The Committee requests the Chairperson of the Committee and/or the Director-General and/or the Chairperson of the Executive Board to use their good offices

187. The Committee decided to request the Chairperson of the Executive Board and the Director-General to intercede with the authorities for the release of the alleged victim (144 EX/3 PRIV., para. 139).

188. The Committee decided to request its Chairperson and the Director-General to attempt again ... to make representations to the President of the country concerned with a view to securing the lifting of the measures of restraint on the freedom of the alleged victim (141 EX/3 PRIV., para. 145).

189. The Committee decided to request the Executive Board, in view of the seriousness of the alleged violations, to ask the Director-General to continue his humanitarian action with a view to seeking a satisfactory solution to the serious problems raised by the communication, in accordance with 104 EX/Decision 3.3, paragraph 14(k) (122 EX/21 PRIV., para. 163).

190. The Committee decided to request the Director-General to continue to use his good offices on behalf of the persons who were the subject of the communication (130 EX/3 PRIV., para. 172).

191. The Committee decided to request the Director-General to use his good offices to appeal for clemency to the Head of State on behalf of the alleged victims and to keep the Committee informed of the outcome at the 161st session of the Executive Board (160 EX/3 PRIV., para. 180).

192. The Committee decided to request the Director-General to use his good offices to appeal to the Head of State for the immediate release of the alleged victim (146 EX/3 PRIV., para. 100).

193. The Committee decided to request the Director-General to use his good offices with the government concerned with a view to the release of the alleged victim, on humanitarian grounds (146 EX/3 PRIV., para. 187).

194. The Committee decided to request the Director-General to make a humanitarian appeal to the appropriate authorities, asking them to alleviate the lot of the alleged victim (119 EX/35 PRIV., para. 196).

195. The Committee decided to ask the Director-General to reissue his urgent appeal for clemency on behalf of the alleged victim to the Head of State concerned, asking for a pardon or at the very least a substantial reduction in his sentence (152 EX/3 PRIV., para. 102).

196. The Committee decided to request the Director-General to write without delay to the Head of State concerned to request him to pardon the alleged victim on humanitarian grounds (151 EX/3 PRIV., para. 76).

197. The Committee decided to request its Chairperson to use his good offices on behalf of the alleged victim at the forthcoming session of the General Conference (137 EX/3 PRIV., para. 19).

198. The Committee decided to request its Chairperson to make appropriate representations in favour of the alleged victim to the delegation in question at the forthcoming session of the General Conference (147 EX/3 PRIV., para. 97; 152 EX/3 PRIV., para. 139).

199. The Committee decided to request its Chairperson to send a personal letter to the Head of State concerned, pleading for clemency for the alleged victim with a view to his immediate release (142 EX/3 PRIV., para. 95).

200. The Committee decided to request the Director-General, in consultation with the Chairperson of the Committee, to take forthwith all necessary steps in favour of the alleged victim, including a visit to him by a UNESCO representative (156 EX/3 PRIV., para. 167).

201. The Committee decided to request the Director-General to examine the possibility of dispatching a UNESCO mission to monitor the progress of the Organization's projects and programmes, and to discuss other matters of mutual interest (154 EX/3 PRIV., para. 94).

202. The Committee decided to urge the Director-General to make representations to the United Nations and the International Committee of the Red Cross in order to examine the possibility of sending a mission to ... to visit the alleged victim (175 EX/3 PRIV., para. 235).

203. The Committee decided to request the Director-General to send, with the agreement of the government concerned, a special representative to visit the alleged victim (176 EX/3 PRIV., para. 133).

## **XV. DEATH OF THE ALLEGED VICTIM WHILE IN DETENTION**

### **Examples of wording used by the Committee in situations in which the alleged victim has died while in detention**

204. The Committee decided to express its sorrow at the death of the alleged victim (140 EX/3 PRIV., para. 143).

205. The Committee decided to express its profound sadness at the announcement of the recent death of the alleged victim (156 EX/3 PRIV., para. 100).

206. The Committee decided to express its profound dismay at learning that ten of the alleged victims had been executed (134 EX/3 PRIV., para. 190).

207. The Committee decided to express its consternation at the death of the alleged victim (154 EX/3 PRIV., para. 157).

## **XVI. RELEASE OF THE ALLEGED VICTIM**

### **A. Examples of wording used by the Committee in situations in which the alleged victim has been released before serving the full term (reduction of sentence, royal pardon, amnesty)**

208. The Committee decided to take note, with satisfaction, of the release of the alleged victim, to consider the case of the alleged victim as settled, and accordingly to strike this communication from its list (147 EX/3 PRIV., para. 89).

209. The Committee decided to take note of the letter from the permanent delegation, to thank the government concerned for the information contained therein regarding the release of the alleged

victim as a result of the reduction of his sentence, and to strike it from its list (131 EX/3 PRIV., para. 63).

210. The Committee decided after having determined that the objective of the communication had been effectively achieved by the release of the alleged victim, to consider the matter settled and to strike the case from its list, in compliance with paragraph 14(a)(x) of 104 EX/Decision 3.3 (117 EX/18 PRIV., para. 130).

211. The Committee decided to take note with satisfaction of the amnesty from which, along with others, the alleged victim had benefited, and to strike this communication from its list, considering it to have been settled in accordance with paragraph 14(a)(x) of 104 EX/Decision 3.3 (132 EX/3 PRIV., para. 11).

212. The Committee decided to take note, with satisfaction, of the release of the alleged victim, to thank the government concerned for its humanitarian gesture and to strike this communication from its list (156 EX/3 PRIV., para. 126).

**B. Examples of wording used by the Committee in situations in which the alleged victim has been released after having served his sentence**

213. The Committee decided to take note of the letter from the permanent delegation and to thank the government concerned for the information contained therein regarding the release of the alleged victim, who had served his sentence, and to declare that this communication had thus ceased to be relevant and to strike it from its list (131 EX/3 PRIV., para. 63).

214. The Committee decided to take note of the release of the alleged victim after having completed serving his sentence, and to strike the communication from its list (147 EX/3 PRIV., para. 70).

**C. Examples of wording used by the Committee in situations in which the alleged victim has been granted a conditional release**

215. The Committee decided to take note of his release (144 EX/3 PRIV., para. 170).

**XVII. COMMUNICATIONS SETTLED**

**Examples of wording used by the Committee in situations in which the Committee considers a communication as settled (satisfactory outcome of a case)**

- (i) The Committee decides to strike the communication from its list

216. The Committee decided to note with satisfaction the happy outcome of this case, and to strike the communication from its list as being settled in accordance with paragraph 14(a)(x) of 104 EX/Decision 3.3 (130 EX/3 PRIV., para. 42).

217. The Committee decided to express its satisfaction at the outcome of this case, and to strike the communication from its list (130 EX/3 PRIV., para. 129).

218. The Committee decided to strike this communication from its list, and to consider it settled in accordance with paragraph 14(a)(x) of 104 EX/Decision 3.3 (135 EX/3 PRIV., para. 25).

219. The Committee decided in view of all the relevant information received, to strike this communication from its list (146 EX/3 PRIV., para. 40).

220. The Committee decided to express its satisfaction at the outcome of these cases and to strike these communications from its list (170 EX/3 PRIV., para. 270).

- (ii) The Committee decides not to continue its examination of the communication

221. The Committee decided in view of all the relevant information received, not to continue the examination of this communication (144 EX/3 PRIV., para. 81).

222. The Committee decided in view of all the relevant information received, not to continue the examination of this communication (146 EX/3 PRIV., para. 164).

223. The Committee decided not to continue at this stage consideration of the communication (152 EX/3 PRIV., para. 63).

224. The Committee decided to keep these communications on its list, but to resume consideration of them only at such time as new information on the identity of the alleged victims is provided and their whereabouts is established, both of which would enable the Committee to continue its work (161 EX/3 PRIV., para. 100).

### **XVIII. COMMUNICATION SETTLED SUBJECT TO CONFIRMATION**

#### **Examples of wording used by the Committee in situations in which a communication is considered settled, but for which the Committee wishes to receive confirmation**

225. The Committee decided to strike the communication from its list subject to confirmation that the travel permit had been available or was no longer needed (140 EX/3 PRIV., para. 53).

226. The Committee decided to strike the communication from its list in the event of the alleged victim being released, and, should she not be released, to resume consideration of this communication at its forthcoming session (132 EX/3 PRIV., para. 18).

227. The Committee decided to strike the communication from its list subject to receiving not later than the 164th session of the Executive Board confirmation by the authorities of the government concerned of the definitive release of the alleged victim, failing which it would renew consideration of the communication at its next meeting (162 EX/3 PRIV., para. 168).

### **XIX. RE-EXAMINATION OF A COMMUNICATION DECLARED TO BE INADMISSIBLE**

#### **Examples of wording used by the Committee in situations in which the re-examination of a communication declared to be inadmissible is justified by further allegations**

228. The Committee decided:

- to point out that, at its session during the ...th session of the Executive Board, the Committee had declared communication No. ... submitted by the same authors and concerning the same alleged victim to be inadmissible;
- to note that Communication No. 989/99 contained no new information and consequently was not admissible either (159 EX/3 PRIV., para. 202).