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Item 29 of the provisional agenda

METHODS OF WORK OF THE COMMITTEE ON CONVENTIONS AND RECOMMENDATIONS (CR)

QUESTION OF THE PARTICIPATION OF OBSERVERS IN THE PRIVATE MEETINGS OF THE CR

SUMMARY

On the occasion of the 179th session of the Executive Board, the Committee on Conventions and Recommendations decided to hold a special meeting at this session to consider the question of the participation of observers in the private meetings of the Committee.

Decision proposed: paragraph 11.

1. At the last session of the Executive Board, the members of the Committee on Conventions and Recommendations (CR) initiated a discussion on the private nature of the Committee's meetings when it examines communications, and more particularly on the question of the participation of observers in the private meetings of the Committee.
2. On that occasion, the relevant provisions of the Rules of Procedure of the Executive Board were recalled, that is, Rules 29 and 30, in particular subparagraph 5 of Rule 30, as was the procedural practice of the Committee concerning the private nature of the CR's meetings (see Annex).
3. In accordance with a custom followed since the establishment of the CR, Members of the Executive Board who are not members of the CR have always respected the confidential character of the private meetings of the CR when it considers communications. Accordingly, notwithstanding the provisions of Rule 30.5 of the Rules of Procedure of the Board 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 on the whole refrained from attending the Committee's meetings when it is considering communications.
4. It must nevertheless be stressed that on some very rare occasions, the Chair of the CR has received a request from one or two Members of the Board who are not members of the CR to participate in meetings of the Committee with observer status. In these very unusual cases, after reminding the Member of the Board who has made the request of the private nature of the

meetings of the CR as set out in its procedural practice, the Chair has granted observer status by virtue of Rule 30.5 of the Rules of Procedure of the Executive Board and duly informed the members of the Committee of the presence of an observer.

5. During the discussion that took place at the last session of the Committee, all the Committee's members underscored the importance of maintaining the private nature of the meetings of the CR when it examines communications in order to ensure strict confidentiality in the implementation of the procedure under 104 EX/Decision 3.3.

6. Some members of the CR were in favour of the participation of any Member of the Board not a member of the Committee in the meetings of the CR as an observer, while emphasizing that the Committee's procedural practice in the matter had not to date caused any particular problem during the 30 years the procedure under 104 EX/Decision 3.3 had existed.

7. Other members were however of the opinion that the procedural practice could be spelt out, in particular the arrangements for requesting observer status which, they considered, should be authorized by the members of the Committee on the basis of criteria which should be applied strictly so as to ensure equal treatment of all States, and to avoid an increase in such requests as well as the risk of pressure on members of the Committee during their discussions.

8. Some members considered that the discussions constituting the most confidential part of the Committee's proceedings, that is, those leading to decisions on the communications, should be held in private without any observers present, especially since, according to procedural practice, members of the Committee representing countries about which communications have been submitted should not be present during these private discussions.

9. At the end of the debate, most of the members said that they were in favour of maintaining the current procedural practice according to which Members of the Board who are not members of the CR refrain from attending meetings of the Committee when it considers communications. They nevertheless decided to continue consideration of the question at the 180th session of the Executive Board.

10. In the light of the debates that took place at the 179th session, it might be possible to envisage reminding all Members of the Board of the private nature of the meetings of the CR at the first session following the renewal of the membership of the Executive Board and the Committee, that is, at the beginning of each new biennium, and inviting all States Members of the Board not members of the CR to abide by this custom, which is a generally accepted derogation to Rule 30.5 of the Rules of Procedure of the Board.

11. In the light of the above, the Executive Board may wish to adopt a decision along the following lines:

The Executive Board,

1. Recalling 19 C/Resolution 6.113, 19 C/Resolution 12.1 and 104 EX/Decision 3.3, on the second aspect of the terms of reference of the Committee on Conventions and Recommendations (CR) on the examination of communications relating to cases and questions concerning the exercise of human rights in UNESCO's fields of competence,
2. Having examined document 180 EX/CR/2 as well as the report of the Committee on Conventions and Recommendations on the matter (180 EX/...),
3. Confirms that, given the private nature of the meetings of the CR, Members of the Board who are not members of the CR refrain from attending the Committee's meetings when it is considering communications, as recalled in the procedural practice of the Committee;

4. Decides, concerning the second aspect of the terms of reference of the Committee on Conventions and Recommendations, to take note of the improvements made by the Committee to its procedural practice as set out in paragraph ... of the report of the Committee on Conventions and Recommendations (180 EX/...) annexed to the present decision.

Annex

(amendment in bold)

“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. **This custom, based on a well-established practice of the Board, is drawn to the attention of all the Members of the Board at 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 new biennium, as a generally accepted derogation to Rule 30.5 of the Rules of Procedure of the Board.”**

ANNEX

A. PROVISIONS OF THE RULES OF PROCEDURE OF THE EXECUTIVE BOARD

“Rule 29 – Private meetings and documents

1. *When, in exceptional circumstances, the Board decides to hold a private meeting it shall determine the persons who shall be present, having regard to Article VI.3 of the Constitution, to the right of Members to be accompanied by advisers or experts, and to agreements entered into with the United Nations and the specialized agencies.*
2. *Any decision taken by the Board at a private meeting shall be announced at a subsequent public meeting.*
3. *At each private meeting, the Board shall decide whether a report of its work at that meeting shall be published.*
4. *Private documents shall normally be made accessible to the public after a period of twenty years.*

Rule 30 – Speeches

1. *No one may address the Board without having previously obtained the permission of the Chairman. The Chairman may call a speaker to order if his or her remarks are not relevant to the subject under discussion.*
2. *Representatives of the United Nations and the specialized agencies may participate without the right to vote, in the discussions of the Board and its subsidiary organs.*
3. *Observers of Member States and of non-Member States may be invited by the Board to address it on matters under discussion.*
4. *Observers of intergovernmental or international non-governmental organizations and other qualified persons may be invited by the Board to address it on matters within their competence.*
5. *Any Member of the Board may take part in the work of subsidiary bodies to which it does not belong. In such cases, and in the absence of any contrary decision by the Board, it shall not have the right to vote.”*

B. PROCEDURAL PRACTICE OF THE COMMITTEE (179 EX/CR/2, paragraphs 35 to 37)

“The special character of the CR’s meetings

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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.”