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

Basic discussion points

SUMMARY

This document has been drawn up by the Secretariat to assist members of the Committee on Conventions and Recommendations in further discussions on working methods associated with the Executive Board's 104 EX/3.3 procedure.

This item has no financial or administrative implications.

Decision proposed: paragraph 9.

1. Since the establishment of the procedure laid down in 104 EX/Decision 3.3, the Committee on Conventions and Recommendations has regularly examined and improved its methods of work, in particular as from 1993, at the 141st and 142nd sessions of the Executive Board, and then from 1995 to 1999 at the Board's 146th, 147th, 149th, 154th, 155th and 156th sessions. It subsequently resumed examination thereof from 2000 to 2004 (159th, 162nd, 164th, 166th, 169th and 170th sessions).
2. During those regular exercises, the Committee considered proposals such as the desirability of establishing a working group on admissibility within the Committee and the possibility of bringing a Rapporteur into the procedure in order to examine the communications in advance and submit them to the Committee and of establishing an intersessional mechanism for cases requiring urgent examination. None of those proposals was adopted.
3. Other proposals were also discussed and adopted with a view, in particular, to improving the presentation of working documents, the formulation of the Committee's decisions, the examination of the exhaustion of domestic remedies and the Committee's profile.
4. More recently, the Committee has made improvements to its methods of work regarding cooperation between CR and other bodies established within the United Nations system to protect human rights, the role of the Director-General, the Chairperson of the Committee and the Secretariat in the prior sorting of communications.

5. At the 180th session of the Executive Board, the Committee decided that it would examine its methods of work at the 181st session, as some members considered that further reflection was required on the issue of the admissibility of communications within UNESCO's fields of competence.

6. At the 170th and 171st sessions, the question of admissibility had already been examined by the Board which had endorsed the Committee's recommendations thereon. It had been pointed out that, in accordance with paragraph 14(d) of 104 EX/Decision 3.3, only the Committee should decide on the admissibility of communications in accordance with its terms of reference relating to human rights in UNESCO's fields of competence. As the conditions governing admissibility are set out in paragraph 14(a) of the decision, the Committee has, over the years, clarified the way in which admissibility is determined:

- UNESCO's competence is determined *rationae personae*. 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 is a link between the alleged violation and UNESCO's fields of competence. Whenever there has been uncertainty as to that status, the alleged victim has always been given the benefit of the doubt. The Committee 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 also determined *rationae materiae*. The activity of which the alleged victim is accused is decisive in determining whether or not a communication is admissible (document 171 EX/21, paragraph 22).

7. Furthermore, the Committee decided at its 171st session that "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" (171 EX/Decision 27, Annex, para. (a)).

8. The Committee may wish to continue its examination of this question and of others concerning its methods of work in order to improve these procedures and make them more effective.

9. Should this examination lead to amendments to the Committee's procedural practice, 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 181 EX/CR/2 and the report of the Committee on Conventions and Recommendations on the subject (181 EX/...),
3. Decides 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 (181 EX/...) and annexed to this decision.