



United Nations  
Educational, Scientific and  
Cultural Organization

# Executive Board

Hundred and eighty-first session

# 181 EX/64

PARIS, 28 April 2009  
Original: English/French

## REPORT OF THE COMMITTEE ON CONVENTIONS AND RECOMMENDATIONS

1. The Committee on Conventions and Recommendations (CR) held five public working meetings on 14, 15 and 17 April 2009, with Mr Günter Overfeld, representative of Germany, in the Chair. It met on 28 April 2009 to adopt this report. In accordance with Rule 16.2 of the Rules of Procedure of the Executive Board, the CR Committee elected Professor Manuel Maria Carrilho, representative of Portugal, temporary Chairperson at the opening of the session. The Committee examined the agenda items below.

### **Item 26 Methods of work of the Committee on Conventions and Recommendations (CR)** (181 EX/CR/2)

2. In his introduction, the Chairperson of the CR Committee said that by reviewing its working methods, the CR Committee sought to further refine its procedural practice which comprised specific principles, rules or lines of conduct adopted by the Committee over the years in regard to the implementation of 104 EX/Decision 3.3. He introduced document 181 EX/CR/2 drawn up by the Secretariat on the question of the admissibility of communications relating to UNESCO's fields of competence, in the light of the Committee's debates at the 180th session. He then referred to the 10 conditions that determine the admissibility of communications, as set out in subparagraphs (i) to (x) of paragraph 14(a) of 104 EX/Decision 3.3 adopted by the Executive Board in 1978.

3. Acknowledging the terms of reference of the CR Committee and the importance of its role, the Committee members considered that the discussion should not only focus on the question of admissibility but also other questions, such as the frequency of the Committee's meetings and coordination with other United Nations bodies established to protect human rights. In that regard, some suggested that the CR Committee examine the communications only once instead of twice each year, to aim at a better balance between the two aspects of the Committee's terms of reference. Some members voiced the idea that the Secretariat conduct an evaluation of the Committee in the context of the reform of the above-mentioned bodies initiated in 2006 and of the adoption by the General Assembly of the United Nations, on 10 December 2008, of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, thenceforth vesting authority in the Committee on Economic, Social and Cultural Rights to examine communications from individuals.

4. With regard specifically to the question of the admissibility of communications, the same members opined that the application of the admissibility conditions should be improved, in particular those addressing such matters as the credibility and means of verification, if necessary, the steps taken to exhaust domestic remedies, a reasonable time-frame for the submission of communications and the inadmissibility of communications based wholly on press information. While recalling that the decision on the admissibility of communications lay with the Committee alone, those members also suggested that, as under similar procedures followed by other United Nations human rights bodies, a working group on the admissibility of communications might be

established on an experimental basis as from the next session of the Board. Under the stewardship of the Chairperson, the working group would be composed of six members of the Committee (one per regional group) and would meet, with the assistance of the Secretariat, for half a day before the first meeting of the Committee and would examine, in the light of paragraph 14(a), the admissibility of any new communication in order to submit its recommendations thereon to the Committee. Some of those members stressed, moreover, that the communications submitted to the CR Committee had, for several sessions now, mainly called into question governments from the same geographical region, thus thwarting cooperation and participation by those States which perceived the CR Committee as a tribunal and not as a body acting in a spirit of international cooperation, conciliation and mutual understanding.

5. Other members of the Committee considered rather that the methods of work did not in general pose any particular problem, but stressed, at the same time, that the current frequency of examination of communications should be maintained on account of the urgent nature of some humanitarian situations submitted to the Committee. They also recalled that the 104 EX/Decision 3.3 procedure still had specific characteristics distinct from similar procedures in the United Nations, such as its non-judicial character and an amicable solution sought in the strictest confidentiality, and that it was an additional means of recourse for any individual wishing directly to submit a case of human rights violation. Any loss of specificity under the procedure would be detrimental to UNESCO's special role in the promotion of human rights in its fields of competence.

6. Subsequently, in regard to the question of admissibility, the same members stated that during the examination of communications, the CR Committee had, during the 30 years of its existence, been required to formulate many rules for the application of 104 EX/Decision 3.3, *inter alia* on the admissibility conditions listed in paragraph 14(a) thereof. Those rules constituted the procedural practice of the Committee as set out in document 179 EX/CR/2. In that regard, they stated that most of the issues addressed in the current debate had already been the subject of decisions by the Committee, as reproduced in its procedural practice, in particular the improvements made to the application of the admissibility criteria adopted by the Executive Board in 171 EX/Decision 27. Stressing the need to ensure that decisions made previously by the Committee were implemented, those members also wondered whether it was desirable to establish a working group on the admissibility of the communications, since the advantages that could be derived from its small membership were yet to be demonstrated. The recent concentration of communications concerning States from the same geographic region could be explained, among other things, by the lack of international jurisdiction for protecting human rights in the region concerned and by the lack of visibility of the work of the Committee in the other regions of the world.

7. To conclude, following informal consultations by the Chairperson of the CR Committee, the Committee decided to resume the consideration of this matter at the next session of the Executive Board on the basis of written contributions by the Committee's members which should reach the Secretariat, through the Chairperson of the CR Committee, by 10 June 2009, and the debates held at the present session, *inter alia*, on the possible establishment of a working group to study questions relating to the admissibility of communications. To enable it to examine the question in full at the 182nd session of the Executive Board, the members of the Committee requested the Board to grant the Committee one additional working day.

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

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 thereon (181 EX/64),
3. Decides that the CR Committee will continue its review of working methods regarding the 104 procedure at its 182nd session based on written contributions from the CR members through its Chairperson, which should reach the Secretariat by 10 June 2009; that the review would also take into account the rich debate of the CR at the 181st session of the Executive Board, during which many ideas were voiced, *inter alia* the idea of establishing a working group to study further questions of admissibility;
4. Decides to grant to the CR Committee one extra day at its 182nd session for that purpose.

**Item 27 Monitoring of the implementation of UNESCO's standard-setting instruments**  
(181 EX/27)

9. The Chairperson of CR introduced this agenda item and document 181 EX/27, which presents a summary of specific substantive measures taken to implement the new legal procedures for monitoring UNESCO Conventions and Recommendations and the reporting obligations of Member States. At the invitation of the Chairperson, and on behalf of Mr N. Burnett, Assistant Director-General for Education, who was prevented from being present for personal reasons, Mr Qian Tang, Deputy Assistant Director-General for Education, made a presentation on "Realizing the right to education in fact and in law". The Chairperson of the CR commended the strong connection between the normative action and the work of the Education Sector (programmes).

10. This was followed by a rich interactive dialogue with members of CR, that covered several issues concerning more effective monitoring of the Conventions and Recommendations in the field of education. Mr Tang, assisted by Mrs L. King, Director a.i, Division of Basic Education, and Mr K. Singh, responsible for the right to education in the same Division, responded to queries and furnished information and clarifications during the debate.

11. Member States pointed out the difficulties and challenges they face both in giving effect to and reporting on the implementation of UNESCO's Conventions and Recommendations. The low rate of ratifications (95 for the Convention against Discrimination in Education and only 17 for the Convention on Technical and Vocational Education) and low response rate in reporting were major constraints. Some Member States expressed the need to concretely analyse and address these issues (deficient questionnaires, lack of capacity, involvement of NGOs and experts, etc.). Moreover, questions were raised as to how data of UIS reflects the planning needs of Member States and for implementing conventions and recommendations.

12. The debate brought into focus the lack of expertise and resources (technical and financial), especially in developing countries, concerning the monitoring of the application of standard-setting instruments. Regarding ratifications, members of CR suggested the need to increase awareness-raising and promotion. As regards a strategy for this purpose, National Commissions have co-responsibility with UNESCO for promoting normative action. They are expected to encourage and support the ratification of conventions. It was recalled that the Convention against Discrimination in Education has been recognized by the Executive Board as the key pillar of EFA. In this respect, it was requested that the Director-General draw the attention of Member States to the Protocol of 1962 instituting a Conciliation and Good offices Commission to be responsible for seeking the settlement of any disputes which may arise between States Parties to the Convention against Discrimination in Education. It was also recognized that innovative methods such as regional consultative meetings could be useful. A major issue was capacity-building, especially in National Commissions for submitting good quality comprehensive reports. The debate also related to an appraisal of UNESCO's work relating to technical assistance to Member States in developing and improving national legislation in the field of education. In this regard, high emphasis was placed on

the principles and norms enshrined in the instruments of UNESCO and of the United Nations. The need to monitor academic freedom better was also discussed.

13. As regards collaboration with the United Nations system, UNESCO had a pioneering role in promoting the principle of equality of opportunity in education as it is common to the work of all United Nations human rights treaty bodies. It was also suggested that involving experts to the CR and examining country reports as well as specific issues would be useful in improving the monitoring role of CR. Questions were also raised as regards follow-up to the monitoring, and the Secretariat referred to a number of measures such as use of State report in programmatic activities and dissemination of practical examples.

14. Mr E. Riedel, member of the CESCR and of the Joint Expert Group UNESCO (CR)/ ECOSOC (CESCR) on the monitoring of the right to education, who was invited by the Chairperson of the CR, highlighted the contributions of the Joint Expert Group to reinforcing the existing monitoring system. He explained the working methods of the CESCR as a body composed of independent experts and the analytical work of the Joint Expert Group. He also referred to the adoption of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which introduces a complaint mechanism, and how its coming into force will impart synergy to the work of CR as regards examination of individual complaints of violations of the right to education. He emphasized that the Joint Expert Group is a unique institutional mechanism that carries out tremendous work, for instance on justiciability and the inclusive dimensions of the right to education. Mr B. Figaji, member of the Joint Expert Group and of the CR as representative of South Africa, complemented this presentation, stating that the Joint Expert Group creates opportunities for greater awareness on key issues and raises the profile of the right to education in the CR. The important question was how to translate legal obligations into law and policy in Member States. During the debate, it was pointed out that UNESCO and the CESCR benefit from systematic and regular exchange of information and State reports.

15. At the end of the debate, the Chairperson of the CR suggested that the work of the Joint Expert Group be given more visibility and expressed the need for a communication strategy on the right to education, with concrete proposals to that effect.

16. After having examined the item, the Committee decided to amend the draft decision. It recommends that the Executive Board adopt the following amended draft decision:

The Executive Board,

1. Recalling 15 C/Resolution 12.2, 23 C/Resolution 29.1, 165 EX/Decision 6.2, 32 C/Resolution 77, 170 EX/Decision 6.2, 171 EX/Decision 27, 174 EX/Decision 21, 175 EX/Decision 28, 176 EX/Decision 33, 177 EX/Decision 35 Parts I and II, 34 C/Resolution 87 and 180 EX/Decision 31, relating to the first aspect of the terms of reference of the Committee on Conventions and Recommendations (CR), which concerns the implementation of UNESCO's standard-setting instruments,
2. Having examined document 181 EX/27 and the report of the Committee on Conventions and Recommendations thereon (181 EX/ 64),
3. Invites Member States to fulfil their legal obligations under Article VIII of the Constitution of UNESCO regarding periodic reports on the action taken upon conventions and recommendations;
4. Requests the Director-General to facilitate, within the available resources, the assistance needed by Member States to help them in fulfilling these obligations;
5. Notes the actions undertaken by the Secretariat to implement the new procedures adopted at its 177th session on the implementation of UNESCO conventions and recommendations for which no specific institutional mechanism is foreseen;

6. Invites the Director-General to submit at each session, in conformity with the agreed calendar, a precise review of the difficulties encountered in the implementation and the monitoring of the conventions and recommendations, the examination of which is included in the agenda of the Committee;
7. Requests the Director-General to communicate to the Committee detailed information relating to the actions envisaged in order to implement the new procedures adopted at its 177th session with the view to permitting more cooperation and dialogue between Member States and the Secretariat on the monitoring of the implementation of the normative instruments of UNESCO;
8. Decides to devote, from the 182nd session of the Committee onwards, the time required for in-depth examination of the concrete measures adopted by the Secretariat in order to progress in the effective implementation of conventions and recommendations of UNESCO by Member States.

**Item 28 Report on the Eighth and Ninth Meetings of the Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the Monitoring of the Right to Education (181 EX/28)**

17. The dialogue between Mr Riedel and Members of the CR mentioned above also covers agenda item 28, which is the report on the Eighth and Ninth Meetings of the Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the Monitoring of the Right to Education (181 EX/28). At the invitation of the Chairperson of the CR, Mr K. Singh, Secretary of the Joint Expert Group, and Mr B. Figaji, member of the Joint Expert Group and of the CR as representative of South Africa, presented this document, highlighting the legal obligations and political responsibility of Member States in the field of the right to education, and stressing the importance of its inclusive dimensions. The right to education was of paramount importance as a universal right that does not admit any exclusion and must be implemented more vigorously. A concept paper on the Inclusive Dimensions of the Right to Education, which served as a basis for the deliberations by the Joint Expert Group, was distributed among the members of the CR. Ms L. King, Director a.i., Division of Basic Education, and Mr K. Singh, responsible for the right to education in the same Division, responded to queries and furnished clarifications during the debate.

18. It was recognized that the inclusive dimensions of the right to education are the very foundation of the theme addressed at the 48th session of the International Conference on Education (ICE), in November 2008, and discussions by the Joint Expert Group contributed to the outcome of the ICE. Member States expressed their appreciation of the fact that the ICE has taken into account, in its conclusions, significant components of the recommendations made by the Joint Expert Group. In addition, special consideration was given to the issue of equality and equity as well as the importance of universal access to good quality for Education for All.

19. The debate on this item demonstrated the high interest of Member States in the activities of the Joint Expert Group and the need to give it greater visibility. The members of the CR considered that an overall review of the work accomplished by the Joint Expert Group should be undertaken. They also expressed their interest in the future work of the Joint Expert Group and its forthcoming meeting.

20. Members of the CR regretted that the Report of the Joint Expert Group presented in document 181 EX/28 was too short and expressed their interest in having a full idea of the proceedings of the Joint Expert Group in its meetings. They strongly suggested that the Report by the Joint Expert Group be comprehensive and furnish a full account of the discussion of the theme examined and the entire deliberations. The Chairperson of the CR fully supported this idea and proposed formulation, which is reflected in the draft decision by the CR.

21. Members of the CR shared the concern of the Joint Expert Group as regards the current global financial crisis, which should not be an excuse to diminish financial resources allocated to

education. Investment in education should receive high priority. It was also pointed out that assistance to countries most in need should be increased.

22. As a result of the debate, the recommendations formulated by the Joint Expert Group in this Report (181 EX/28), were examined and finally endorsed by the CR for appropriate follow-up to be given by the Director General.

23. After having examined the item, the Committee decided to amend the draft decision. It recommends that the Executive Board adopt the following amended draft decision:

The Executive Board,

1. Recalling 162 EX/Decision 5.4, 171 EX/Decision 27, 172 EX/Decision 26, 175 EX/Decision 29, 177 EX/Decision 37 and 179 EX/ Decision 24,
2. Having examined document 181 EX/28 and the report of the Committee on Conventions and Recommendations thereon (181 EX/64),
3. Expresses its appreciation of the accomplished and current work of the Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the Monitoring of the Right to Education;
4. Recognizes the importance of the theme “Inclusive Dimensions of the Right to Education” addressed by the Joint Expert Group in its eighth and ninth meetings, in the context of the 48th session of the International Conference on Education (Geneva, November 2008);
5. Notes that the International Conference on Education in its final recommendations has taken into account significant components of the recommendations made by the Joint Expert Group;
6. Invites Member States to give special consideration to the inclusive dimensions of the right to education, as elucidated by the Joint Expert Group, in their legal systems, education policies and strategies for advancing education for all (EFA);
7. Also invites all Member States, in spite of the current global financial crisis, to ensure within their budget the necessary investment in order to ensure the full implementation of the right to quality education for all, and invites Member States to increase the assistance to the countries which are most in need, especially in Africa as UNESCO’s priority;
8. Requests the Director-General to implement the suggestions and recommendations made by the Joint Expert Group in document 181 EX/28 for follow-up action, which were examined and endorsed by the Committee on Conventions and Recommendations (CR);
9. Invites the Joint Expert Group to continue its consultations relating to the examination of key issues within its broad mandate of monitoring the right to education in all its dimensions, such as the issues of mother tongue education and multilingualism to be addressed at the forthcoming 10th meeting of the Joint Expert Group;
10. Requests the Joint Expert Group to present at the 184th session of the Executive Board a report on the overall activities of the Joint Expert Group undertaken since the 181st session and to submit in its forthcoming reports a more comprehensive picture of the debates that took place within the Joint Expert Group.

**Item 30 Report by the Director-General on Allegations Received by the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel – CEART (181 EX/30 and 181 EX/INF.11)**

24. The Director of the Division of Higher Education, representing the Education Sector, introduced this agenda item. He provided an overview of the three cases from Australia, Ethiopia and Japan.

25. One member of the Committee inquired whether cases being handled by the CEART only pertained to higher education teaching personnel or to teachers in general.

26. Another member commented that the document was very detailed and inquired whether the CR was to enter into details or whether its mandate was to review the draft decision as presented before the Board. He further remarked that most of the representatives, including him, were not aware of each country's regulations. The Chairperson of the CR replied that the draft decision was procedural, and the CR would have to decide whether or not to adopt or modify this draft decision, but he also wanted to hear general comments as well as comments on details regarding the three cases, if any, in order to come to an enlightened decision.

27. The Director of Higher Education explained that the three cases in this report pertained to higher education teaching personnel but clarified that there were two normative instruments within the CEART's mandate, the 1966 Recommendation concerning teachers in general and the 1997 Recommendation concerning higher-education teaching personnel.

28. One member of the CR commented that the cases of Australia and Egypt were similar in terms of continuing developments and follow up, while Ethiopia was different as the case had remained static. Ethiopia's case should then be reflected in a different way in the draft recommendation of the Executive Board.

29. The member from Ethiopia commented that she could not understand why her country was once again in the scenario although she was not requesting that the allegation be dropped. The Director of Higher Education responded by citing CEART's report that there was limited information on behalf of the Ethiopian Teachers' Association and that the government had not replied to the invitation to continue discussion, leading the CEART to recommend suspending further consideration of the case pending more information on the issues.

30. The Chairperson then invited an observer from Japan to take the floor upon its request. The representative of the Government of Japan made the following declaration: "On behalf of the Japanese Government, I would like to make some comments on the Joint Committee's Interim Report concerning the allegation from the "All Japan Teachers and Staff Union" (which hereinafter I will refer to as "ZENKYO"). I would like my following statement to be included in the records of the meeting. First of all, I would like to express my respect for the committee members who participated in the investigation of this case, and allow me to state my gratitude for the fair evaluation by the Joint Committee on the Japanese Government's recent efforts concerned with this allegation. In respect for the spirit of the "Recommendation on the Status of Teachers", our government has moved forward with educational administration through methods that fit in with our country's actual circumstances and legislation. In that process, we have improved measures to ensure that the system mentioned in the allegation by ZENKYO be fair and appropriate. We explained these things faithfully when we accepted the fact-finding mission last April. However, while the Interim Report highly evaluates our measures, there are statements and recommendations that are described without due consideration of our country's actual situation and legislation. We are disappointed that we were not able to gain sufficient understanding of our country's legislation, actual situation and the measures we have taken, and we find it difficult to accept such statements and recommendations. We, the Government of Japan, respecting the spirit of the "Recommendation on the Status of Teachers", intends to continuously implement the policies concerned through methods, that fit in with our country's actual situation and legislation, by placing the highest policy priority on the provision of greatest benefits to the children, who are the driving force of the future."

31. One member restated that Australia's and Japan's case were on an equal footing in terms of ongoing review of developments while Ethiopia's case warranted a statement on its own. He suggested that a second paragraph be made regarding Ethiopia. Another member agreed with that member's comments and suggested that the Executive Board invite the Director-General to encourage communications between the Ethiopian Government and the Teachers' Union. Another member agreed with the previous speakers on the issue of Ethiopia and added that as a Committee, they should take note of the intervention of Japan and then go ahead with the draft decision. It was further suggested by another member that the Committee request the Director-General to use his good offices to help the Ethiopian Government and the teachers' union to resolve their case.

32. The second member from Ethiopia took the floor and stated that the government had proposed to handle the issue with Education International and the teachers' union and this has been taken up to the highest part of government, which made serious efforts to settle the problem through discussions and negotiations. He commented that it would be inappropriate to interfere with a dialogue in progress, but there was a need to encourage communication among the parties concerned.

33. The Chair commented that the next CEART session would take place in Paris from 28 September to 2 October 2009 and this would be taken up. He encouraged both sides to come to a solution.

34. One member inquired about the Information Document regarding the appointment and/or reappointment of CEART members by UNESCO (181 EX/INF.11). The Director of Higher Education responded by saying that the Director-General of UNESCO appointed or reappointed six experts who were selected on the basis of their competence in the main fields covered by the recommendations and their knowledge of the problems that may arise in their application and drawn from a criteria (geographical distribution, gender) and a selection process.

35. After having examined this item, the Committee decided to amend the draft decision. It recommends that the Executive Board adopt the following amended draft decision:

The Executive Board,

1. Recalling 154 EX/Decision 4.4,
2. Having examined document 181 EX/30 and the report of the Committee on Conventions and Recommendations thereon (181 EX/64),
3. Takes note of the interim report of the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART) on allegations of non-observance of the Recommendations of 1966 and 1997 transmitted to CEART by teachers' organizations, taking into account the comments made by the representative of Japan during the meeting of the CR;
4. Invites the Director-General to communicate the report to the Governments of Australia and Japan and to the National Tertiary Education Union of Australia and teachers' organizations in Japan that participated in meetings with the CEART fact-finding mission in April 2008, and to invite them to take the necessary follow-up action as recommended in the report.
5. Further invites the Director-General to communicate the report to the Government of Ethiopia as well as to the Ethiopian Teachers' Association and to Education International and requests the Director-General to use his good offices to try to improve communication between the Ethiopian authorities and these two teachers' organizations.





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Hundred and eighty-first session

# 181 EX/64 Corr.Rev.

PARIS, 19 May 2009  
Original: French

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### REVISED CORRIGENDUM

Paragraph 28, first sentence: replace Egypt by Japan.