



United Nations
Educational, Scientific and
Cultural Organization

Executive Board

Hundred and eighty-second session

182 EX/68

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REPORT OF THE COMMITTEE ON CONVENTIONS AND RECOMMENDATIONS

1. The Committee on Conventions and Recommendations (CR) held three public working meetings on 7 and 10 September 2009, with Mr Georges Santer, representative of Luxembourg, and Professor Manuel Maria Carrilho, representative of Portugal, elected temporary Chairperson in accordance with Rule 16.2 of the Rules of Procedure of the Executive Board, in the Chair. It met on 18 September 2009 to adopt this report.
2. The Committee expressed its gratitude to Mr Günter Overfeld (Germany), who had chaired the Committee from the 179th session to the 181st session of the Executive Board.
3. The Committee examined the agenda items below.

Item 30 Review by the Committee on Conventions and Recommendations of the working methods regarding the “104 procedure” established in 104 EX/Decision 3.3 (182 EX/30 and 182 EX/INF.15)

4. In his introduction, the Chairperson of the CR Committee highlighted the unique nature of the 104 procedure, its specific features in relation to existing procedures in the United Nations system and the spirit of cooperation and conciliation that must prevail. Stressing that the goal of the CR Committee was to improve the plight of the alleged victims, he said that by reviewing its working methods, the CR Committee sought, while avoiding any oversimplified view of the matter, to be more effective and 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 (Annex II to document 179 EX/CR/2).
5. During the discussion of this item, the members of the Committee raised many general questions on the working methods of the Committee, such as the need for a balance between the two aspects of the Committee's terms of reference, frequency of meetings, documentation on its procedural practice, the rationalization of working documents and the presentation of statistical data on the application of the 104 procedure.
6. Some members of the Committee also considered that the Committee's working methods, in particular the admissibility criteria, should be thoroughly updated, stating that 104 EX/Decision 3.3 had been adopted in a geopolitical context superseded by the contemporary world. Other members of the Committee were rather of the opinion that there was no particular problem with the working methods in general, but stressed the humanitarian nature of the situations submitted to the Committee. The Committee deemed it necessary at that point in the debate to review the specific features of the 104 procedure, namely, its confidentiality and non-judicial character and the spirit of good cooperation, mutual respect and courtesy that should prevail during the CR Committee's proceedings. It also considered that two essential elements in the Committee's procedural practice

should be stressed once again: first, communications must not be based wholly on information disseminated by the media, and second, the Committee might decide, as appropriate, to suspend consideration of a communication for one or more sessions.

7. After a lengthy debate on the desirability of establishing a group to examine compliance with the admissibility criteria and to address the concerns expressed by some members of the Committee about the prior selection of cases by the Secretariat, the representative of the Director-General and the Legal Adviser recalled that, in accordance with paragraph 6 of the procedural practice, the Secretariat was not authorized to sort communications except in cases specified by the Committee, namely (i) allegations manifestly not within UNESCO's competence and (ii) allegations manifestly ill-founded or whose authors were mentally unbalanced. The representative of the Director-General then provided quantified data and the reasons for the selection made accordingly in the present biennium. In 2008, a total of five communications had been rejected (four under (i) above and one under (ii) above). In addition, the Secretariat had sent a form, which had not been returned to date, to an author whose letter had seemed *prima facie* to fall within the fields of competence of UNESCO. Since 1 January 2009, three communications had been rejected (two under (i) and one under (ii)), one form had not been returned by the author, while in another case, for which a form had been dispatched, the author had reported that a happy outcome had been achieved. For the sake of transparency, the Committee considered it necessary for the Secretariat, whose impartiality was in no way impugned, to provide such information at each session.

8. Some members of the Committee wondered about the compatibility of the 104 procedure with other mechanisms for the protection of human rights in the United Nations system which, moreover, had been subject to wide-ranging reform in recent years. In that regard, other members noted that the Secretariat had, in 2003, already conducted a comparison of the 104 procedure with those other United Nations bodies (166 EX/23) and that the Committee had reaffirmed the unique character of the procedure. The Committee decided to request the Secretariat to update that document in the light of the most recent developments in the United Nations system.

9. Members of the Committee recalled that the communications submitted to the CR Committee had, for several sessions now, mainly called into question governments from the same geographical region. In addressing that concern, the members of the Committee considered *inter alia* that enhancement of the Committee's visibility could remedy that trend. On that point, the Committee considered that efforts should be made, including through the National Commissions, to ensure that the 104 procedure was better known in every region of the world and it invited the members of the CR Committee to submit proposals on the question of visibility at the next meeting of the Committee.

10. Lastly, the Committee members deemed it necessary to continue to examine the working methods of the CR Committee by establishing an open-ended ad hoc working group within the Committee. The working group's operational procedures will be determined at the 184th session of the Executive Board when the newly composed Committee meets after the forthcoming elections to the Executive Board.

11. After examining this item, the Committee recommended that the Executive Board adopt the following draft decision:

The Executive Board,

1. Recalling the 104 EX/Decision 3.3 procedure and 181 EX/Decision 26,
2. Reaffirming that the Committee on Conventions and Recommendations (CR) has a dual mandate and that both aspects are equally important,

3. Recalling the principle of confidentiality that characterizes the 104 EX/Decision 3.3 procedure and constitutes one of its specific features,
4. Recalling the non-judicial nature of the 104 EX/Decision 3.3 procedure and the spirit of good cooperation, mutual respect and courtesy that must prevail during CR Committee debates,
5. Recalling that communications must not be based only on information disseminated by the media,
6. Recalling that the CR Committee may decide, if need be, to suspend the examination of a communication for one or more sessions,
7. Requests the Secretariat to give the members of the CR Committee, in addition to the list of communications on its roll, a reasoned summary of the communications excluded by the Secretariat on the basis of paragraph 6 of the procedural practice in Annex II to document 179 EX/CR/2;
8. Requests the Secretariat to update, in light of recent developments in the United Nations in the field of human rights, the study conducted by the Secretariat in 2003 entitled *Comparison of the procedures of the Committee on Conventions and Recommendations with those of the United Nations human rights bodies*, contained in document 166 EX/23;
9. Requests the Secretariat to continue to update, every two years, the document that collates all texts relating to the two aspects of the CR Committee's terms of reference;
10. Encourages the continuation of efforts to make the 104 EX/Decision 3.3 procedure better known, *inter alia* through the National Commissions, and invites CR Committee members to submit their proposals, in the form of written suggestions addressed to the Director-General by 15 January 2010, in order to enhance the visibility of the procedure in every region;
11. Decides to establish, within the CR Committee and without any financial implications, an open-ended ad hoc working group which will examine ways and means of improving the working methods of the CR Committee and whose operational procedures will be determined at the next session of the CR Committee.

Item 31 Monitoring of the implementation of UNESCO's standard-setting instruments
(182 EX/31 and 182 EX/INF.11)

12. The temporary Chairperson introduced this agenda item. The Legal Adviser then presented document 182 EX/31, which contains a summary of specific substantive measures taken by the Secretariat to implement the new legal framework for monitoring UNESCO conventions and recommendations and the reporting obligations of Member States. Owing to the apparent widespread dissatisfaction within the United Nations system with monitoring of conventions and recommendations, she highlighted the need to rationalize procedures and explained the process leading to the adoption, at the 177th session of the Executive Board in October 2007, of the new specific multi-stage procedure and of the framework guidelines for the preparation of reports on the implementation of conventions that the CR Committee is tasked with monitoring (177 EX/Decision 35, Parts I and II).

13. The debate, which constituted a continuation of the discussion at the previous session of the CR Committee, centred on a review of the difficulties encountered in the implementation and the monitoring of UNESCO's conventions and recommendations, actions envisaged to implement the

new procedures for monitoring, and concrete measures in order to progress in the effective implementation by Member States of the conventions and recommendations.

14. Several important questions were raised with a view to devising a more effective implementation of this new legal framework by the UNESCO programme sectors. As the information contained in Annex I of document 182 EX/31 predominantly related to the work in the Education Sector (which is responsible for 2 out of the 3 conventions and 7 out of the 11 recommendations that the CR Committee monitors), the debate related for the most part to monitoring conventions and recommendations in the field of education. It was pointed out that Member States and especially developing countries face difficulties in fulfilling their reporting obligations and preparing reports. Hence, there was a need to provide technical assistance. The Secretariat was encouraged to continue to develop technical assistance and overcome the lack of resources dedicated to this exercise. Concrete measures to be undertaken in order to strengthen this task as well as the mandate of the CR should be identified.

15. The issues of the low rate of ratification and the low response rate figured prominently in the debate. The issue of universal ratification of conventions was important. The need to analyse the reasons – political or technical – underlying low ratification rates as well as the need for a strategy to improve the situation, for instance by putting in place new mechanisms, was underlined. As regards the low response rate, it was observed that information contained in the global (analytical) reports examined by the CR cannot be considered representative of all Member States. Moreover, for the sake of clarity of discussion of the issues involved, a distinction should be made between the difficulties Member States encounter in implementing the instruments, on the one hand, and the difficulties they face in producing the reports, on the other. It was suggested that it would be useful to elaborate mid-term and long-term strategies.

16. It was recognized that the approach adopted by the CR is now more systematic and progress has been made. However, a lot of time is spent on planning, and not enough time is devoted by the CR to examining reports. In this connection, the system of the United Nations human rights treaty bodies was highlighted, whereby country reports are examined by the concerned treaty body, which is composed of independent experts.

17. As regards the timetable for the presentation to and examination of reports by the CR, mentioned in Annex II of the document, it was suggested that it can be reviewed, updated and adjusted, if necessary.

18. The representatives of the Education Sector (Ms Linda King, Director a.i of the Division for the Promotion of Basic Education, and Mr Kishore Singh, Senior Programme Specialist, responsible for the right to education in the same Division) responded to queries and furnished information and clarifications throughout the debate. Both Member States and the Secretariat have responsibility for promoting normative action. Member States are expected to take measures aimed at ratification of conventions, and their application, along with recommendations. In reply to a query about the absence of a reference to the 1962 Protocol in Annex II of the document, the Secretariat explained that, eventually, it will draw upon the expertise of the members of the Conciliation and Good Offices Commission. The importance attached by the Education Sector, especially within the framework of the draft 35 C/5 with respect to more effective monitoring of conventions and recommendations in the field of education, was mentioned. As regards the reasons underlying the low level of ratifications, it was recalled that, as mentioned in Annex I, under UNESCO's new technical and vocational education and training strategy, the Education Sector is undertaking a study which will assess the Convention on Technical and Vocational Education.

19. It was also emphasized that the information provided in Annex I to document 182 EX/31 on the implementation of the 1974 Recommendation on the Status of Scientific Researchers was inadequate. In that regard, the representative of the Social and Human Sciences Sector (Mr John Crowley, Chief of Section, Ethics of Science and Technology Section) recalled that the World

Commission on the Ethics of Scientific Knowledge and Technology (COMEST) had, in June 2009, adopted recommendations on the monitoring of that instrument. In 2010, Member States will be consulted about the action taken on the first set of recommendations adopted by COMEST, which may adopt others in order to improve the implementation of the 1974 Recommendation. The consultation will finish at the end of 2011, according to the timetable adopted by the Committee on Conventions and Recommendations (CR) at the 181st session.

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

The Executive Board,

1. Recalling 15 C/Resolution 12.2, 23 C/Resolution 29.1, 32 C/Resolution 77, 34 C/Resolution 87, 165 EX/Decision 6.2, 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, 180 EX/Decision 31 and 181 EX/Decision 27 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 182 EX/31 and the report of the Committee on Conventions and Recommendations thereon (182 EX/68),
3. Invites Member States once again to fulfil their legal obligations under Article VIII of the Constitution of UNESCO regarding periodic reports on the action taken on conventions and recommendations;
4. Takes note of the concrete measures adopted by the Secretariat to implement the new procedures adopted at the 177th session on the implementation of UNESCO conventions and recommendations for which no specific institutional mechanism is provided;
5. Also takes note of the timetable contained in Annex II to document 182 EX/31, on the understanding that this timetable may be subject to further adjustments in the light of the implementation of the new procedures;
6. Invites the Director-General to provide an overall report on the conventions and recommendations that the Committee on Conventions and Recommendations is required to monitor, in particular on the status of ratifications of the conventions and the initial obstacles encountered by Member States in the ratification of these conventions;
7. Invites the Director-General to continue to submit, at each session, in accordance with the agreed timetable, a detailed account of the problems encountered in implementing and monitoring the conventions and recommendations appearing on the agenda for examination by the Committee on Conventions and Recommendations;
8. Also invites the Director-General to pursue the implementation of this new legal framework by the programme sectors and the UNESCO Institute of Statistics (UIS), which have the responsibility for the conventions and recommendations monitored by the Committee on Conventions and Recommendations.

Item 32 Protocol 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: nominations and report of the Committee on Conventions and Recommendations thereon (182 EX/32 and Add.)

21. After the item had been introduced by the temporary Chairperson, the members of the Committee noted that three countries (France, Germany and Italy) had submitted nominations for the 7 seats on the Conciliation and Good Offices Commission that would become vacant in 2009.

22. The Executive Board may wish to adopt a decision along the following lines:

The Executive Board,

1. Recalling the provisions of Article 3 of the Protocol 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,
2. Also recalling the provisions of Article 7 of the Protocol whereby, subject to the provisions of Article 6, members of the Commission shall remain in office until the election of their successor,
3. Having taken note of the list of persons nominated by the States Parties to the Protocol for the purpose of the election of seven members of the Commission, communicated to it by the Director-General pursuant to Article 3, paragraph 2, of the Protocol (182 EX/32 and Add.),
4. Transmits this list to the General Conference at its 35th session;
5. Requests the Director-General to add to this list any candidatures which he may receive before the opening of the 35th session of the General Conference.

Item 35 Results of the Fourth Consultation on the Implementation of the 1974 Recommendation concerning Education for International Understanding, Co-operation and Peace and Education Relating to Human Rights and Fundamental Freedoms (182 EX/35)

23. The temporary Chairperson introduced this agenda item and Ms Linda King, DIR/ED/BAS a.i., presented the document. She briefly explained that the Fourth Consultation had been conducted in accordance with the “new procedures” for monitoring established by the Executive Board in 2007. The report highlights the process whereby human rights instruments and principles had been gradually incorporated into legal and policy frameworks, and educational and teaching tools.

24. The presentation was followed by an exchange with members of the CR. At the outset, there was a discussion about the possible uses (and follow up) of the outcome of the monitoring exercise, the results of which are contained in document 182 EX/35. Another main point on which the discussion focused was whether the report on the results of the Fourth Consultation in its present form could be conveyed to the United Nations system. Some Member States expressed their concern about submitting this document in its present form to the United Nations system, as its paragraphs 23 to 28 did not necessarily reflect the view of the entire Organization owing to the small number of replies received (35 countries). On the other hand, other countries were in favour of submitting the document to the Office of the High Commissioner for Human Rights (OHCHR), as this was an excellent opportunity to show the relevance of UNESCO’s work in the area of human rights education within the United Nations context. It was suggested that it should be specified that the document had been prepared on the basis of the 35 reports submitted by Member States and that the list of reporting countries should be included. Clarification was also requested on the role

that UNESCO was required to play in the drafting of the proposed United Nations Declaration on Human Rights Education and Training.

25. Member States expressed their concern with regard to the limited number of pages given to the synthesis report – document 182 EX/35 (6 pages). It would be a challenge for CR to find a better way to allow for a meaningful review of the consultations and reports received. It was proposed that it will be useful to set up a specific review mechanism or to add summaries of each national report as an appendix to the consolidated report (document) which the CR examines, or simply to continue the discussion at the next session of the Executive Board. It was felt that Member States would be interested in having a full picture of information contained in the country reports.

26. Some Member States emphasized the need to have an in-depth discussion on the key issues concerning the results of the report as described especially in paragraphs 20 to 28 of document 182 EX/35, before adopting the whole document and the draft decision. Such discussion would allow Member States to analyse key challenges and recommend a better way forward.

27. Member States finally agreed to share the results of the fourth consultation with the OHCHR with an amendment to the title preceding paragraph 23 so that it reads: “Suggestions for future action by some Member States.” (instead of “by Member States and UNESCO”) and to discuss further this question at the next session of the Committee.

28. The representatives of the Education Sector (Ms Linda King, Dir. a.i Division for the Promotion of Basic Education, and Mr Kishore Singh, Senior Programme Specialist, responsible for the right to education in the same Division) responded to the queries, providing necessary information and explanations, including the usefulness of the results of the fourth consultation, UNESCO’s cooperation with other United Nations agencies and its actions for promoting human rights education.

29. In the light of the foregoing, the Executive Board may wish to adopt the following decision:

The Executive Board,

1. Having examined document 182 EX/35,
2. Recalling 34 C/Resolution 87, 177 EX/Decision 35, 180 EX/Decision 31 and 181 EX/Decision 27,
3. Takes note of the results of the Fourth Consultation on the implementation of the 1974 Recommendation concerning Education for International Understanding, Cooperation and Peace and Education relating to Human Rights and Fundamental Freedoms, in conjunction with the World Programme for Human Rights Education (WPHRE);
4. Requests the Director-General to ensure that document 182 EX/35 as amended in paragraph 27 of the report of the Committee on Conventions and Recommendations (182 EX/68), as UNESCO’s contribution to the consultation on the first phase of the Plan of Action of the World Programme for Human Rights Education that ends in December 2009, is submitted to the Office of the United Nations High Commissioner for Human Rights for follow-up;
5. Invites the Director-General to contribute the results of the Fourth Consultation to the ongoing consultation and drafting process for a United Nations declaration for human rights education and training, the principle of which was adopted by the Human Rights Council in its Resolution 6/10;

6. Requests that document 182 EX/35, together with the text of this decision and the report of the CR Committee thereon, be transmitted to the General Conference at its 35th session;
7. Decides to continue, at its 184th session, consideration of the implementation of the 1974 Recommendation concerning Education for International Understanding, Cooperation and Peace and Education relating to Human Rights and Fundamental Freedoms.



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CORRIGENDUM

Paragraph 9, second sentence: replace "*inter alia*" by "more particularly".