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Cultural Organization

Executive Board

Hundred and eighty-fifth session

185 EX/22

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Item 22 of the provisional agenda

REVIEW BY THE COMMITTEE ON CONVENTIONS AND RECOMMENDATIONS OF THE WORKING METHODS WITHIN THE FRAMEWORK OF 104 EX/DECISION 3.3

SUMMARY

Pursuant to 184 EX/Decision 19, the Committee on Conventions and Recommendations (CR) will continue to review its working methods within the framework of 104 EX/Decision 3.3 in the light of the work of the Committee's open-ended ad hoc working group established in accordance with 182 EX/Decision 30, which will meet in conjunction with the 185th session of the Executive Board on Monday, 4 and Tuesday, 5 October 2010.

This item has no financial or administrative implications.

1. In 181 EX/Decision 26, the Executive Board decided that the Committee on Conventions and Recommendations (CR) would continue its review of working methods regarding the "104 procedure" established in 104 EX/Decision 3.3 at its 182nd session, based on written contributions from the members of the Committee. After taking cognizance of document 182 EX/30 containing the contributions of 11 of its States Members, the Committee adopted the report on this item, as set out in document 182 EX/68, paragraphs 4 to 10.
2. In accordance with 182 EX/Decision 30, the Committee was required at the 184th session of the Executive Board to examine document 184 EX/19 Part I containing proposals transmitted by eight States Members of the Committee on means of increasing the visibility of the "104 procedure", as well as document 184 EX/19 Part II updating, in the light of recent developments at the United Nations in the field of human rights, the study conducted by the Secretariat's 2003 study comparing the procedures of the Committee on Conventions and Recommendations with those of the United Nations human rights bodies (166 EX/23). The report by the Committee on Conventions and Recommendations thereon is contained in 184 EX/39, paragraphs 3 to 7.
3. Pursuant to 184 EX/Decision 19 concerning the review by the Committee on Conventions and Recommendations of the working methods within the framework of 104 EX/Decision 3.3, the open-ended ad hoc working group established in accordance with 182 EX/Decision 30 will convene in conjunction with this session of the Executive Board on Monday, 4 and Tuesday, 5

October 2010. At that meeting, the Secretariat will provide the working group with the following reference documents.¹

- 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);
- Report of the Committee on Conventions and Recommendations (182 EX/68, paras. 4-10);
- 182 EX/Decision 30;
- Review by the Committee on Conventions and Recommendations of the working methods within the framework of 104 EX/Decision 3.3 – Proposals by States members of the Committee to make the “104 procedure” better known (184 EX/19 Part I);
- Review by the Committee on Conventions and Recommendations of the working methods within the framework of 104 EX/Decision 3.3 – Comparison of the procedures of the Committee on Conventions and Recommendations with those of the United Nations human rights bodies (184 EX/19 Part II);
- Report of the Committee on Conventions and Recommendations (184 EX/39, paras. 3-7);
- 184 EX/Decision 19.

¹ These documents are available online at: http://portal.unesco.org/en/ev.php-URL_ID=46874&URL_DO=DO_TOPIC&URL_SECTION=201.html



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REVIEW BY THE COMMITTEE ON CONVENTIONS AND RECOMMENDATIONS OF THE WORKING METHODS WITHIN THE FRAMEWORK OF 104 EX/DECISION 3.3

ADDENDUM

Report of the Chair of the open-ended ad hoc working group of the Committee on Conventions and Recommendations (CR)

Pursuant to 184 EX/Decision 19, the open-ended ad hoc working group established by the Committee on Conventions and Recommendations (CR) in compliance with 182 EX/Decision 30 met on Monday, 4 October and Tuesday, 5 October 2010 to coincide with the present session of the Executive Board.

The open-ended ad hoc working group was composed of the following CR Committee members: Algeria, Belarus, Burkina Faso, Chile, China, Côte d'Ivoire, Cuba, Egypt, France, Germany, India, Italy, Kenya, Malaysia, Niger, Peru, Philippines, Poland, Republic of Korea, Saint Lucia, Saudi Arabia, Senegal, Slovakia, Spain, Tunisia, United States of America and Venezuela (Bolivarian Republic of). The following States attended the meetings of the open-ended ad hoc working group as observers: Albania, Barbados, Japan, Luxembourg, Mexico, Monaco and Serbia. The open-ended ad hoc working group designated Mr Maurizio Serra, representative of Italy, as Chair by consensus.

After examining the different proposals contained in working documents 182 EX/30, 182 EX/INF.15 and 184 EX/19 Parts I and II in a climate of mutual respect and concentration, the open-ended ad hoc working group was unable to reach a consensus on a detailed proposal regarding ways to improve the working methods of the CR Committee within the framework of 104 EX/Decision 3.3.

Two members of the open-ended ad hoc working group each presented a working document, contained in Annex I and Annex II to this report.

ANNEX I

WORKING DOCUMENT SUBMITTED BY CUBA FOR DISCUSSION BY THE CR WORKING GROUP (4-5 OCTOBER 2010)

Non Paper

Study and improvement of the practices and working methods for the examination of communications relating to the exercise of human rights in UNESCO's spheres of competence

The Executive Board,

1. Bearing in mind that over 30 years have passed since approval of the procedure to examine the communications relating to the exercise of human rights in UNESCO's spheres of competence, as defined in 104 EX/Decision 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"),
2. Being aware of the progress achieved within the United Nations system on matters concerned with the protection and promotion of human rights, and of the need to improve the implementation of 104 EX/Decision 3.3, as a means of consolidating a more democratic, transparent, objective and impartial procedure, with a view to increasing its efficiency and obtaining greater respect,
3. Recalling its decisions 181 EX/Decision 26, 182 EX/Decision 30 and 184 EX/Decision 19 regarding the practices and working methods of the Convention and Recommendations Committee related to the "104 Procedure",
4. Having considered the report of the special working group set up under 184 EX/Decision 19, to study and find ways of improving the practices and working methods for the examination of communications relating to the exercise of human rights in UNESCO's spheres of competence,
5. Decides:
 - (a) to make sure that the admissibility criteria set out in 104 EX/Decision 3.3 are to be strictly observed in all respects, regardless of the stage reached by the communication concerned or the years for which it has been under examination by the Committee;
 - (b) to set a time limit for submission of the relevant communications to the Organization, of six months from the date of the alleged violations;
 - (c) to examine communications only once a year, in order to give the States concerned in alleged human rights violations more time to act on the Committee's recommendations. This would also result in a better balance between the Committee's mandates;
 - (d) to arrange for the representatives of the State concerned to participate throughout the examination of the relevant communications, thereby enhancing the transparency and credibility of the process;
 - (e) to set up a working group on communications, on the following bases:

- (i) the group will conduct preliminary reviews of the communications received by the Secretariat, and will bring to the Committee's attention those alleged violations of human rights within UNESCO's spheres of competence;
 - (ii) the group will ensure strict implementation of the admissibility criteria established in 104 EX/Decision 3.3;
 - (iii) the group will identify the conditions and allegedly violated rights that determine whether a communication should be examined by the Committee;
 - (iv) the group shall consist of six members, one from each of the regional groups;
 - (v) each regional group shall nominate a representative of a Committee Member State to join the working group on communications. Such nominations will be for two years and can be renewed only once while the representative concerned remains a member of the Committee;
 - (vi) in case of a vacancy, the outgoing group member's regional group shall nominate a representative of the Member States of the same regional group;
- (f) to define the following stages in the process of examining communications by the Committee, and to set time limits for the various stages:
- (i) a representative of the Secretariat will make a short presentation dealing with all the communications of the State concerned, either case by case or covering all the relevant communications, as he/she sees fit. Time limit: 15 minutes.
 - (ii) the representative of the State concerned will make a presentation dealing with all the relevant cases, either case by case or covering all the communications involved, as he/she sees fit. Time limit: 30 minutes.
 - (iii) interactive debate/question-and-answer session, in which the Committee members may ask questions or request supplementary information from the representative of the State concerned. Time limit: 25 minutes.
 - (iv) the representative of the State concerned will be entitled to put his/her closing arguments regarding the result of the examination. Time limit: 15 minutes.
 - (v) private discussions leading to a decision and recommendations on communications examined by the Committee, as well as its adoption, must take place in the presence of the representative of the State concerned,¹ in order to guarantee the equity and transparency of the process and the principle of equal treatment of all States.
- (g) to discontinue the existing list of wording used by the Committee, on the grounds that each communication of a communication involves individual features and shades of difference that cannot be accommodated within pre-established models; that change would contribute to enhancing the Committee's credibility;
- (h) if any communication is under review by any other agency in the United Nations system, the State concerned will notify this fact to the Secretariat before the relevant session of the Committee. The Secretariat will consult with the other agency to ensure that there is no unnecessary duplication or inconsistency, and will notify the State concerned and the Committee accordingly;

¹ The following provision invalidates the corresponding decision of the Committee at its 140th session.

6. Decides to request the Open-ended Working Group to continue studying the Committee's practices and working methods in the light of the 186th session of the Executive Board, in accordance with the bases established in 184 EX/Decision 19.

ANNEX II

WORKING DOCUMENT SUBMITTED BY FRANCE FOR DISCUSSION BY THE CR COMMITTEE AD HOC WORKING GROUP (4-5 OCTOBER 2010)

The Executive Board,

Reaffirming the “104 procedure” in 104 EX/Decision 3.3 adopted on 26 April 1978,

Stressing that the “104 procedure” has made it possible to alleviate the suffering of several victims of human rights violations and that it constitutes a useful and efficient tool in this regard,

Noting that the procedure is unique and complements other mechanisms in the United Nations system in charge of protecting human rights,

1. Decides to adopt the following improvements made by the Committee on Conventions and Recommendations to its working methods:
 - (a) The Director-General shall:
 - (i) make at the beginning of each of the Committee’s sessions an oral report summarizing the communications that have not been considered transmittable to the Committee under the conditions set out in paragraph 14(a) of 104 EX/Decision 3.3 and that have been removed in accordance with paragraph 6 of the decision governing the procedural practice;
 - (ii) endeavour to obtain from the international organizations with responsibility for the protection of human rights additional information on cases covered by communications and shall transmit it to the members of the Committee;
 - (iii) distribute to the Member States of the Committee a complete file on each admissible communication containing, in addition to the summary presentation, the various documents attached to the communication;
 - (iv) transmit to the Member States of the Committee all relevant information received in the periods between the Committee’s sessions concerning the communications included in the agenda of the current session;
 - (b) the Committee shall examine at each of its sessions, in a private meeting, the communications that have been transmitted to it by the Director-General;
 - (c) should the Committee defer a decision regarding the admissibility of a communication, the latter shall continue to be included systematically in the Committee’s agenda;
 - (d) a State Member of the Committee may not participate in the adoption of decisions relating to communications concerning it;
 - (e) the Committee shall suspend automatically and sine die the examination of communications whose authors have not transmitted new information to it for four successive sessions; it may decide to resume examination of such communications if new information is submitted;

2. Urges the Committee to refer more frequently to paragraphs 14(g) and 16 of 104 EX/Decision 3.3;
3. Invites the Director-General to use her good offices systematically when travelling, in order to encourage the emergence of solutions to the cases examined by the Committee;
4. Also invites the Director-General to improve the visibility of the procedure established in 104 EX/Decision 3.3 by:
 - (a) making the existence of this procedure clearly apparent on UNESCO's website;
 - (b) holding a joint review session of the Committee on Conventions and Recommendations and the Committee on International Non-Governmental Organizations;
 - (c) promoting the procedure by other appropriate means.



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CORRIGENDUM

Report of the Chair of the open-ended ad hoc working group of the Committee on Conventions and Recommendations (CR)

The second paragraph of document 185 EX/22 Add. reads as follows:

The open-ended ad hoc working group was composed of the following CR Committee members: Algeria, Belarus, Burkina Faso, Chile, China, Côte d'Ivoire, Cuba, Egypt, France, Germany, India, Italy, Kenya, Malaysia, Niger, Peru, Philippines, Poland, Republic of Korea, Saint Lucia, Saudi Arabia, Senegal, Slovakia, Spain, Tunisia, United States of America and Venezuela (Bolivarian Republic of). The following States attended the meetings of the open-ended ad hoc working group as observers: Albania, Barbados, Belgium, Canada, Japan, Luxembourg, Mexico, Monaco and Serbia. The open-ended ad hoc working group designated Mr Maurizio Serra, representative of Italy, as Chair by consensus.