



United Nations
Educational, Scientific and
Cultural Organization

Executive Board

Hundred and eighty-fifth session

185 EX/49

Paris, 19 October 2010
Original: English/French

REPORT OF THE COMMITTEE ON CONVENTIONS AND RECOMMENDATIONS

1. The Committee on Conventions and Recommendations (CR) held three public working meetings on 7 and 8 October 2010, with Mr Maurizio Enrico Serra, representative of Italy, in the Chair. It met on 18 October 2010 to adopt this report. In accordance with Rule 16.2 of the Rules of Procedure of the Executive Board, the CR Committee elected Ms Martina Nibbeling-Wriessnig, representative of Germany, as temporary Chair.

2. The Committee on Conventions and Recommendations examined the agenda items below:

Item 22 Review of the working methods of the Committee on Conventions and Recommendations (CR) within the framework of 104 EX/Decision 3.3, 185 EX/22 Add. and Corr.

3. In his introduction, the Chair of the Committee, in his capacity as Chair of the open-ended ad hoc working group, established by the Committee in compliance with 182 EX/Decision 30 and 184 EX/Decision 19, presented his report on the proceedings of the working group. This open-ended ad hoc working group met on 4 and 5 October 2010 and had been 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 (185 EX/22 Add. and Corr.).

4. Committee members then considered the draft decisions on this item contained in documents 185 EX/CR/DR.1 and 185 EX/CR/DR.2.

5. Following informal consultations among its members, the Committee decided to recommend that the Executive Board adopt the following draft decision:

The Executive Board,

1. Reaffirming 104 EX/Decision 3.3 on Procedure 104 adopted on 26 April 1978,
2. Acknowledging the importance of improving the working methods regarding Procedure 104 established in 104 EX/Decision 3.3,
3. Recalling Article 1 of the Constitution of UNESCO and the full implementation of Procedure 104,

4. Being aware that more than 30 years have passed since the Executive Board adopted 104 EX/Decision 3.3 and that in the light of the development and achievements within the United Nations system for the protection and promotion of human rights, it considered appropriate to improve the effectiveness of the implementation of 104 EX/Decision 3.3 in order to achieve greater efficiency and visibility in UNESCO's action,
5. Emphasizing that:
 - (a) Procedure 104 has succeeded in contributing in alleviating the suffering of several victims of human rights violations, and that it constitutes a useful tool in this regard,
 - (b) Procedure 104 is unique and at the same time complementary to other mechanisms of the United Nations system responsible for protecting human rights,
 - (c) the Committee on Conventions and Recommendations (CR) is working towards dialogue and good offices as a way to resolve matters that negatively affect the practices of human rights within the field of competence of UNESCO and that the Committee is not of a judicial nature,
 - (d) the CR Committee applies the admissibility criteria of the communications, on a case-by-case basis, within the framework of Procedure 104,
6. Decides to adopt the following measures to improve the working methods of the CR Committee:
 - (a) the representative of the Director-General shall present, at the beginning of each session of the Committee, an oral report which summarizes the communications which have not been considered as transmittable to the Committee under the terms of the conditions outlined in paragraph 14 (a) of 104 EX/Decision 3.3 and which have been removed according to paragraph 6 of the procedural practice;
 - (b) the Committee shall examine at every session, in a private meeting, the communications transmitted to it by the Director-General, and also examine at every session the cases already before the Committee, unless it decides otherwise;
 - (c) the Secretariat is invited to make the necessary arrangements to ensure that the communications related to member(s) of the Committee would be examined at the end of each daily meeting;
 - (d) the Committee may suspend the examination of a communication whose author has not transmitted new information during four successive sessions, but may resume its examination at any time;
 - (e) the Committee shall endeavour to avoid standard formulas when drafting its decisions;
 - (f) the Secretariat shall strive to obtain from the international organizations whose field of competence is the protection of human rights complementary information on the cases that are the subject of communications, and transmit it to the members of the Committee;
7. Invites the Director-General to use her/his good offices in order to facilitate the emergence of solutions concerning the cases under examination by the Committee;

8. Also invites the Director-General to enhance the visibility of Procedure 104 by:
- (a) making this procedure more easily accessible on the official website of UNESCO;
 - (b) ensuring the promotion of the procedure by other appropriate means.

Item 23 Implementation of standard-setting instruments for whose monitoring the Board is responsible

Monitoring of the implementation of UNESCO's standard-setting instruments
(185 EX/23 Part I)

6. The representative of the Director-General and Legal Adviser introduced document 185 EX/23 Part I containing detailed information on activities conducted for the ratification of the three conventions and the implementation of the eleven recommendations for whose monitoring the CR is responsible, including on the human and budgetary resources allocated thereto, information provided by the programme sectors concerned and the UNESCO Institute for Statistics (UIS).

7. In regard to the 1960 Convention against Discrimination in Education, a member of the Committee expressed the hope that the celebration of the fiftieth anniversary of the 1960 Convention would be an opportunity to make a critical assessment of the Convention in order to identify why the standard-setting instrument had only been ratified by 96 UNESCO Member States to date, reflecting slower ratification over the last ten years. He was of the opinion that one of the reasons was the increasing importance of the right to education over about 10 years, and said that the Secretariat should create a coherent mechanism for reporting on and monitoring the right to education as it is set down in various United Nations conventions on human rights, pursuant to 30 C/Resolution 15 adopted by the General Conference at its 30th session in 1999. Furthermore, referring to paragraph 4 *in fine* of document 185 EX/23 Part I, he considered that the information on the right to education that Member States had already provided to United Nations human rights bodies should, rather, be gathered by the Secretariat in a database. In regard to the 1997 Recommendation concerning the Status of Higher-Education Teaching Personnel, he viewed it necessary, before pursuing common research with ILO, for the Secretariat to submit a report on the situation concerning academic freedom, a matter that had been withdrawn from the provisional agenda of the 175th session of the Executive Board in autumn 2006. Lastly, he wished to obtain information on the status of the independent study conducted by the Secretariat on the 1989 Convention on Technical and Vocational Education and the 2001 Revised Recommendation thereon as well as on the results of the March 2010 meeting of the CONFINTEA advisory group on the 1976 Recommendation on the Development of Adult Education.

8. With regard to the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, a member of the Committee said that in its subsequent contributions on the monitoring of this standard-setting instrument, the Secretariat should avoid any further confusion on activities relating to the 1970 Convention as such and those relating to the work of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation, as had been the case at the present session with regard to the restitution of the Makonde Mask by the Barbier-Mueller Museum, Geneva, to the United Republic of Tanzania.

9. Lastly, a member of the Committee reiterated the importance of the first aspect of the CR Committee's dual mandate for the examination of matters relating to the implementation of UNESCO's standard-setting instruments entrusted to the Executive Board. He emphasized that it was important for the Committee to have precise information on ratifications of the three conventions for whose monitoring the CR Committee was responsible. In that regard, he expressed his concern about the lack of any information in document 185 EX/23 Part I on the 1962 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.

10. In reply to questions by the members of the Committee on the 1960 Convention, the Education Sector specified that a database on the right to education was being set up. This easily accessible database would systematize all the information gathered by the Secretariat on the matter, including that collected from human rights bodies within the United Nations system. This database would also contain elements from the next reports of Member States, drawn up for different consultations on the implementation of the Convention and the Recommendation against Discrimination in Education. Furthermore, the Secretariat recalled that for its fiftieth anniversary, a ratification campaign¹ had been conducted for the 1960 Convention, the early impact of which had been positive, since some UNESCO Member States had shown their interest in becoming States Parties to the Convention, although it should be noted that other Member States had already stated that they did not wish to be bound by the 1960 Convention.

11. With regard to the 1989 Convention on Technical and Vocational Education and the 2001 Revised Recommendation thereon, the Education Sector also specified that the independent study on the impact of those instruments was still under way and that a draft of the final report was due in December 2010. The study was expected to determine, in particular, the reasons for the low rate of ratifications of the 1989 Convention. Member States had been consulted in that regard to discover the reasons for their ratification or non-participation in the Convention. An initial comparison with existing international instruments on the matter, in particular those adopted by the International Labour Organization (ILO) and the European Union, had already been transmitted to the Secretariat for that study.

12. Following the discussions, the members of the Committee decided to recommend the following draft decision to the Executive Board:

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 (I and II), 34 C/Resolution 87, 180 EX/Decision 31, 181 EX/Decision 27, 182 EX/31 and 184 EX/20 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 185 EX/23 Part I and the report of the CR Committee thereon (185 EX/49),
3. Urges 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. Also urges the Director-General to ensure the implementation of this new legal framework by the programme sectors and the UNESCO Institute of Statistics (UIS), which have responsibility for the conventions and recommendations monitored by the CR Committee;
5. Decides to continue consideration of the matter at its 186th session.

¹ See circular letter CL/3933 of 5 July 2010 by the Director-General on the ratification of the 1960 Convention available at: <http://unesdoc.unesco.org/images/0018/001885/188526e.pdf>. This circular letter also mentions the 1962 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. The 1962 Protocol has been ratified to date by 33 States Members of UNESCO.

Consideration of the draft guidelines for the preparation of reports by Member States on the application of the 1960 Convention and Recommendation against Discrimination in Education (1960) (185 EX/23 Part II)

13. The Chief of the Section for Early Childhood Care and Education presented document 185 EX/23 Part II and highlighted its main elements. He explained that in accordance with the “new procedures” for the monitoring of the implementation of conventions and recommendations for which no specific institutional mechanism is provided (177 EX/Decision 35 Parts I and II), the Executive Board has adopted framework guidelines for the preparation of reports on the implementation of conventions and that, through this document (185 EX/23 Part II), the Secretariat submits to the CR Committee the draft guidelines that have been developed specifically for the 1960 Convention and Recommendation, on the basis of the framework guidelines, with a view to the eighth consultation of Member States on their implementation.

14. This was followed by a rich discussion, in which several members of CR took part. The debate demonstrated the high interest of members of the CR Committee in the draft guidelines. Regarding their content, while they recognized their usefulness in the preparation of national reports, they expressed their concern regarding the fact that their governments may have some difficulties in providing necessary requested information. For some members, the guidelines are too detailed and written in a too academic way. Recognizing the institutional constraints of their governments as well as the urgent nature of the adoption of the guidelines, they requested the Secretariat to consult Members of the Executive Board in order to obtain their comments by the end of the year before submitting them again at the 186th session of the Executive Board. Moreover, they raised issues regarding statistics suggesting it would be better to use international statistics (such as those provided by UIS) instead of asking Member States to do so. It was also suggested deleting some issues, such as human rights and fundamental freedoms, which were too abstract for them, and private, religious and moral education, as they felt they were written in a way that could be understood as compulsory for Member States. Moreover, members suggested also approaching national research authorities and all education NGOs in the monitoring process. According to them, it would also be crucial that the Secretariat establish a global database on the implementation of the right to education. In addition, the importance of mentioning 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 was highlighted.

15. Taking note of these remarks, representatives of the Education Sector responded to queries and furnished clarifications as to the document and draft guidelines. The Secretariat insisted on the fact that the guidelines are not a questionnaire that has to be strictly followed and are not compulsory. Even though some points are framed as questions, the document must be regarded more as a guide assisting Member States in the preparation of reports. It represents the methodology that it wishes to recommend to ensure that their reports include the most accurate information possible. The Secretariat also indicated the difficulty of finding information outside the country for this exercise.

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

The Executive Board,

1. Bearing in mind Member States’ obligations under Article VIII of UNESCO’s Constitution and Article 17 of the Rules of Procedure concerning recommendations to Member States and international conventions covered by the terms of Article IV, paragraph 4, of the Constitution,
2. Recalling 34 C/Resolution 13, 181 EX/Decision 27 and 184 EX/Decision 20,

3. Further recalling Part I and Part II of 177 EX/Decision 35, which adopt respectively (a) a specific multi-stage procedure for the monitoring of the implementation of UNESCO conventions and recommendations for which no specific institutional mechanism is provided and (b) framework guidelines,
4. Having examined document 185 EX/23 Part II and the report of the Committee on Conventions and Recommendations thereon (185 EX/49),
5. Takes note of the draft guidelines drawn up for the preparation of reports by Member States on the application of the 1960 Convention and Recommendation, as annexed to document 185 EX/23 Part II;
6. Invites the Members of the Executive Board to submit to the Secretariat their comments on the draft guidelines by the end of 2010;
7. Requests the Secretariat to submit to it for adoption, at its 186th session, revised draft guidelines based on the comments received from the Members of the Executive Board.

Report by the Director-General on the tenth session of the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART) and Report by the Committee on Conventions and Recommendations thereon (185 EX/23 Part III A and Add.)

17. The representative from the Section for Teacher Education introduced the agenda item. He provided a brief overview of the contents of the Tenth CEART Report, which focused on major issues such as: social dialogue in education; initial and continuing teacher education; employment and careers, teacher salaries, teaching and learning conditions; teacher shortages in the framework of Education for All, including financing and recruitment challenges, impact of HIV and AIDS on the profession and gender issues; academic freedom and institutional autonomy in higher education; higher education terms and conditions of employment and the impact of private and for-profit providers of post-secondary education.

18. One Committee member took the floor and inquired about the impact of CEART's work and the delineation of ILO and UNESCO activities.

19. The representative from the Section for Teacher Education replied that unlike the other normative instruments, the Recommendations were not conventions, meaning that they were not legally binding. In spite of this, the Recommendations are gaining a stronger impact, as witnessed, for instance by the presence of delegates from Denmark and Japan, who referred to the Recommendations and were familiar with them. In terms of ILO's and UNESCO's cooperation, a clear delineation of tasks is defined according to the remit of each organization. For instance, ILO focuses more on social dialogue, while academic freedom is more within UNESCO's responsibility. He also denoted the constant need to advocate use of the Recommendations and to make them better known through various promotional activities including World Teachers' Day.

20. The same Committee member further remarked that previous CEART reports were more substantive while the present report to the Board was a summary of two pages. He added that past studies were more detailed.

21. The representative from the Section for Teacher Education clarified that the full report of 63 pages was in fact in the Addendum and had been distributed in the room, which had then been shared with him by other delegates. This was also available in three languages: English, French and Spanish, and had been published since February of this year. Furthermore, comprehensive studies such as academic freedom, social dialogue and feminization of the teaching profession were in the making, and would be made available by the CEART for publication and eventual distribution.

22. An observer, representative of the Government of Japan, made the following declaration: “On behalf of the Japanese Government, I would like to make a brief remark before there is a reference to Japan in the CEART report. The Japanese Government continues to respect the spirit of the recommendations regarding the Status of Teachers, and intends to proceed with efforts appropriate to Japan’s situation and legal system, with its foremost priority firmly set on the welfare of all children.”

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

The Executive Board,

1. Recalling 154 EX/Decision 4.4, 157 EX/Decision 6.3 and 176 EX/Decision 32,
2. Having examined document 185 EX/23 Part III A and Add.,
3. Takes note of the report of the Tenth Session of the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART/10/2009);
4. Appreciating the work of the Joint Committee in stimulating action to promote greater awareness and wider application of the two Recommendations concerning the status of teaching personnel,
5. Invites the Director-General to assist the Joint Committee in carrying out its next cycle of work, the report of which is foreseen for submission to the Executive Board in 2013;
6. Requests the Director-General to communicate the report of the Joint Committee, together with the observations of the Executive Board, if any, to Member States and their National Commissions, international teachers’ organizations and other relevant international organizations having relations with UNESCO, inviting their consideration and comments on the policy recommendations of the CEART that concern them and encouraging them to continue to apply all provisions of both normative instruments.

Report by the Director-General on allegations received by the Joint ILO/UNESCO Committee of Experts on the Application of the Recommendation concerning Teaching Personnel (CEART) (185 EX/23 Part III B)

24. The representative from the Section for Teacher Education presented the item by citing the difference between the full report as presented in Part III A and the Interim Report which, as its name indicated, was prepared every 1.5 years in between the CEART meetings, which took place every three years, and specifically pertained to allegations made by teachers’ organizations on non-application of either or both recommendations.

25. He then cited further developments in the three previous cases from Australia, Ethiopia and Japan and a new allegation from the Dansk Magisterforening (DM), a Danish organization.

26. In the case of Denmark, the CEART did not find that the Danish legislation called into question by the Danish teachers’ organization (DM), and by Education International (EI) was in violation of the 1997 Recommendation’s provisions regarding major issues such as academic freedom, self-governance, collegiality and collective bargaining on terms and conditions of employment.

27. Regarding Australia, the interim report commended the Government for its legislative and policy reforms that improve application of key provisions of the 1997 Recommendation. The CEART requested the parties to keep the Joint Committee apprised of further progress of any continuing difficulties should the need arise.

28. With regard to Ethiopia, the Joint Committee reiterated its call for greater respect for the key concept of consultations with teachers' organizations as teachers' commitment to education reform is closely linked to the process of social dialogue. The Joint Committee also requested UNESCO to communicate the outcomes of actions by the Director-General and to use her good offices to improve communications between the Government and teachers' organizations.

29. In the further review of developments in Japan since the 2008 interim report, the CEART recommended that the Government and teachers' organizations use the advisory services of ILO and UNESCO to access good practices on systems of consultation and social dialogue, teacher evaluation and merit assessment that might serve as models for improvement, and cooperate with ILO and UNESCO to prepare a mutually acceptable understanding of the text of the 1966 Recommendation in Japanese. It further recommended that the Government transmit the CEART reports to prefecture boards of education; and that the Government, as well as all representative teachers' organizations, keep the Joint Committee apprised of any progress and continued difficulties.

30. Two observers asked for the floor. Firstly, a representative from Japan made the following declaration and requested that this be reflected in the report: "On behalf of the Japanese Government, I would like to make some comments on the Joint Committee's Interim Report. I would like my following statement to be included in the records of the meeting. Respecting 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 situation and legislation. In that process, we have improved measures to ensure that the system mentioned in the allegation to be fair and appropriate. With regard to the recommendation in the Report of the Tenth Session of CEART, 'the Government and teachers' organizations make use of the advisory services and good offices of the ILO and UNESCO', we are of the view that it would be useful to utilize the knowledge of the ILO and UNESCO, as necessary. With regard to the recommendation, 'The Joint Committee invites the Government and teachers' organizations to cooperate with the ILO and UNESCO to prepare a mutually acceptable understanding of the text of the 1966 Recommendation', we believe that the 1966 Recommendation is clearly understood among all parties involved. With regard to the recommendation, 'The Joint Committee also invites the Government to transmit the interim report and the report of the fact-finding mission to the prefecture boards of education for information', the CEART Interim Report, Report of the CEART Fact-Finding Mission to Japan, and Tenth Session CEART Report were distributed at the January 2010 conference for personnel department directors from all prefectural and major municipal boards of education, and explanations provided therewith. Moreover, we are prepared to update the Joint Committee on the situation in Japan as necessary, if the Committee so requests. Taking the points which I have just mentioned into account, the Japanese Government intends to sincerely address the recommendation of the Report of the Tenth Session of CEART". Secondly, a representative from Denmark commended the CEART's report and informed the session that the Danish Government would report back to the Joint Committee with regard to the discussions and developments on dialogue with DM.

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

The Executive Board,

1. Recalling 154 EX/Decision 4.4, 157 EX/Decision 6.3 and 176 EX/Decision 32,
2. Having examined document 185 EX/23 Part III B,
3. Takes note of the relevant parts of the report of the Tenth Session of the CEART relating to allegations on the non-observance of certain provisions of the ILO-UNESCO Recommendation, 1966, in Australia, Ethiopia and Japan, and the UNESCO Recommendation, 1997, in Denmark, annexed hereto;

4. Invites the Director-General to communicate the report to the Governments of Australia, Denmark, Ethiopia and Japan and to the National Tertiary Education Union of Australia, the National Teachers' Association (formerly Ethiopian Teachers' Association), Education International, the All Japan Teachers' and Staff Union (ZENKYO), Nakama Union, the Japan Teachers' Union (Nikkyoso) and other representative teachers' organizations in Japan, and to take the necessary follow-up action as recommended in the report.

32. Following the adoption of this report, an observer, representative of the Government of Ethiopia, made the following statement on paragraphs 28 and 31 of the report: "We have taken serious note of the allegations concerning Ethiopia. We deplore the fact that the allegations were forwarded without consulting the Ethiopian Government. We want to also recall that previous allegations have been suspended. My Government has always insisted that such matters be handled through dialogue. My Government has also been working hard and very successfully to advance the interests and wishes of the legally recognized Teachers Association and all Ethiopian teachers. In brief, the Ethiopian Delegation wants to place on the record its serious objection of the unfounded allegations presented to this Committee."