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REFLECTION ON THE JOINT EXPERT GROUP UNESCO (CR)/ECOSOC (CESCR) ON THE MONITORING OF THE RIGHT TO EDUCATION

SUMMARY

By 187 EX/Decision 21, the Executive Board invited the Director-General to suspend UNESCO's participation in the work of the Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the Monitoring of the Right to Education and to engage jointly with ECOSOC (CESCR) in a reflection on the future of the Joint Expert Group and possible alternative solutions to ensure joint monitoring of the right to education. Pursuant to this decision, the Director-General submits the report on the results of the reflection prepared jointly with ECOSOC (CESCR).

The financial or administrative implications of the reported activities fall within the parameters of the current C/5 document.

Action expected of the Executive Board: proposed decision in paragraph 13.

Background

1. The Joint Expert Group UNESCO (CR)/ECOSOC (CESCR) on the Monitoring of the Right to Education was established by UNESCO's Executive Board (162 EX/Decision 5.4 II) in 2001 in order to institutionalize the collaboration between CESCR and UNESCO. Its mandate is to:

- (a) formulate practical suggestions for strengthening the growing collaboration between UNESCO (CR) and ECOSOC (CESCR) for the purpose of monitoring and promoting the right to education in all its dimensions;
- (b) suggest specific measures for cooperative action by the two bodies with a view to imparting synergy to the follow-up to the Education for All (EFA) Dakar Framework for Action within the United Nations system;
- (c) consider the possibilities for reducing the reporting burden on States in relation to the right to education and identify ways in which arrangements could be both streamlined and made more effective; and
- (d) advise on right to education indicators.

Overview of the work accomplished by the Joint Expert Group

2. The Joint Expert Group (JEG) held 11 meetings between 2001 and 2011.

3. In its discussions over the course of the years, the Group attached high significance to practical ways of ensuring complementarity in the work of the CESCR and CR in monitoring the right to education, identifying core issues in a spirit of bringing together the two reporting systems closer and reducing the reporting burden for governments.

4. The Group also considered the foundation of the right to education in national legal systems as an overarching theme, addressing key issues in achieving universal access to primary education in the context of education for all (EFA) as a priority. Emphasis was placed on justiciability of the right to education (insisting on the usefulness of making the judicial and quasi-judicial systems and procedures for the enforcement of the right to education better known) and on the right to primary education free of charge for all.

5. An important discussion took place on the inclusive dimensions of the right to education. Following its ninth meeting, the Group presented a set of recommendations to the forty-eighth session of the International Conference on Education (ICE) in 2008, underlining the crucial importance of the inclusive dimensions of the right to education. These constitute the very foundation for achieving universal access to education without discrimination and advancing the EFA agenda.

6. The issue of multilingualism, the mother tongue and the right to education was also addressed by the Group, focusing on the legal framework and legal obligations of Member States to respect the principle of equality of opportunity and not to discriminate on the basis of language in the public education system. On this occasion, the Group acknowledged the need to refer to caselaws on the right to education and language as practical examples for raising greater awareness about how this right might be claimed in various countries.

7. Moreover, following the expression by the Group of a need for an operational definition of basic education, in particular to ensure that the United Nations system uses the same language, UNESCO organized an expert consultation to develop an operational definition. The discussions, which pointed to the need for a new future-oriented approach to basic education, focused on key legal and policy parameters of basic education, namely: duration (number of years), purpose, curriculum and content, quality and evaluation of outcomes, beneficiaries, provision and resources, as well as its free and compulsory nature.

8. On another point, the Group recommended that due place is accorded to the right to education in the Global Action Plan for EFA and to make “the right to education” the theme of the *EFA Global Monitoring Report*. The Group also recommended that UNESCO share with CESCR the reports received from the Member States on the implementation of the Convention and Recommendation against discrimination in education and the results of their examination by the CR to engage both UNESCO and the CESCR in giving impetus to their common endeavour for promoting the fundamental principle of equality of educational opportunities.

9. The eleventh meeting took stock of the work of the Joint Expert Group, defined the methods of work for the future and adopted a plan of activities for the two coming years (cost of education, quality and accessibility) was its last meeting and was held in 2011.

The way forward

10. As mentioned above, in examining the report on the eleventh meeting of the Group at the 187th session of the Executive Board, an important discussion regarding the future of the JEG took place. Recalling the initial mandate of the JEG, the members of the CR noted that the goal of the Expert Group had been reached and that it had fulfilled its mission. Moreover, regarding the thematic focus proposed by the Expert Group for the coming two years, the members of the CR raised concern of possible duplication of analytical work already undertaken by other entities. Therefore, the Executive Board decided to suspend UNESCO’s participation in the work of the Group and invited UNESCO’s Director-General to engage jointly with ECOSOC (CESCR) in a reflection on its future, taking specifically into account the resources available (187 EX/Decision 21).

11. Following this request, two options for the future of JEG are jointly proposed by UNESCO and ECOSOC (CESCR) based on extensive discussions and consultations between the two Organizations.

- (A) Based on the assessment of the CR that the goal of the Joint Expert Group has already been reached and that this entity had fulfilled its mission, **terminate the mandate of the Joint Expert Group**. However, the two Secretariats, UNESCO and ECOSOC/CESCR, will continue their collaboration by way of providing regular reports on the implementation of the right to education in countries that are examined by the CESCR. Discussions could be focused on ways to make these regular reports more focused to facilitate the CESCR’s review of State reports. In addition, UNESCO’s collaboration with the CESCR could be strengthened by encouraging informal participation of the two bodies’ members in information sessions, for example, to share each other’s experiences on their respective mandate, in particular once the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR) will enter into force.
- (B) If the Executive Board prefers to maintain the Joint Expert Group, it could be envisaged as **an ad hoc standing body** with a broad mandate relating to the practical aspects of the monitoring of the implementation of the right to education. In this case, a meeting of the Group would be convened when necessary, if and when financial resources to cover the expenses are identified. From the CESCR side, needs may arise, for instance, when the Committee works on the formulation of a general comment which touches upon the right to education or in the context of the entry into force of the Optional Protocol to ICESCR. From the CR side, this could be done, for instance, when a consultation is launched or when the Committee needs to work or to consult on some specific issues relating to the right to education. In case this option is adopted, it would be necessary to refocus its mandate and define precisely its new mission while taking

into consideration the outcomes of the last meeting of the JEG regarding the review of its functioning.¹

Conclusion

12. The two options proposed highlight the importance of continued cooperation between UNESCO (CR) and ECOSOC (CESCR). Building on the ten years of experience of the Joint Expert Group, they also seek to address the key concerns of resource constraint and risk reduction in the duplication of work. With an enhanced focus based on tangible needs identified on both sides, the collaboration between the two entities could achieve results in a more cost-efficient manner.

Action expected of the Executive Board

13. In the light of the above, the Executive Board may wish to adopt the following draft decision:

The Executive Board,

1. Recalling 162 EX/Decision 5.4 (II), 171 EX/Decision 27, 172 EX/Decision 26, 175 EX/Decision 29, 177 EX/Decision 37, 179 EX/Decision 24, 181 EX/Decision 28, 184 EX/Decision 23, and 187 EX/Decision 21,
2. Having examined document 190 EX/25, and the report of the Committee on Conventions and Recommendations (CR) thereon,
3. Takes note of the content of the reports and suggestions they contain,
4. Decides to adopt option (...) and requests the Director-General to begin its implementation.

¹

- (i) **Mandate:** In view of the monitoring role of both CR and CESCR, it is proposed that, if maintained, the Group could become a more practice-oriented body and thus concentrate its work on the practical aspects of the monitoring of the right to education. The JEG could discuss, among other issues, the monitoring of the various aspects of the enjoyment of the right to education, ways for reducing the reporting burden on States and for streamlining the various monitoring procedures, and to consider the issue of definitions. The Group may also consider, from a legal perspective, a vision of education beyond 2015 in the context of post-EFA and Millennium Development Goals (MDG).
- (ii) **Nomination of members:** The need for continuity in the membership of the Group should be borne in mind. For instance, it could be proposed that the members of the CR, appointed by the Chairperson of the Board in consultation with the Chairperson of CR, can be re-appointed for a consecutive period of two years.
- (iii) **Composition:** It could be proposed to expand the composition of the Joint Expert Group to four representatives each from CR and CESCR. Participation to the Group could also be expanded to other United Nations bodies working on the monitoring of the right to education, by inviting to its meetings ad hoc experts specialized in the themes to be addressed on the agenda.
- (iv) **Bearing in mind** that the financial resources available are decreasing, the use of technologies, such as video-conferencing, should be considered.