



Governing Body

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Legal Issues and International Labour Standards Section
International Labour Standards and Human Rights Segment

LILS

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THIRD ITEM ON THE AGENDA

Joint ILO–UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART): Report on allegations submitted by teachers' organizations

Purpose of the document

The Governing Body is invited to take note of the CEART's recommendations regarding allegations from teachers' organizations examined at its 11th Session (8–12 October 2012), and to request the Director-General to communicate these recommendations to the relevant parties (see the draft decision in paragraph 5).

Relevant strategic objective: Strengthen tripartism and social dialogue.

Policy implications: None.

Legal implications: None.

Financial implications: None.

Follow-up action required: Transmit CEART recommendations on allegations to relevant member States and teachers' organizations.

Author unit: Sectoral Activities Department (SECTOR).

Related documents: GB.306/LILS/8(&Corr.); GB.312/LILS/7.

1. The Joint ILO–UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel (CEART) was established by parallel decisions of the Governing Body and of the Executive Board of UNESCO in 1967. Its mandate is to monitor and promote application of the 1966 and 1997 international recommendations concerning the status of teachers.¹ As part of its mandate, the CEART examines communications in the form of allegations from international and national teachers' organizations that provisions of one or both recommendations are not being applied in member States.
2. The CEART meets every three years in either Paris or Geneva for its work, including consideration of allegations. The 11th Session of the CEART was held from 8 to 12 October 2012 at ILO headquarters in Geneva. The reports of the CEART are submitted to the Governing Body and to the Executive Board of UNESCO for their separate action. Its procedures also allow the preparation of interim reports on allegations between the regular meetings.
3. In line with past practice and at the request of the CEART, the allegations examined by the 11th Session are submitted to the Governing Body's Legal Issues and International Labour Standards Section for its review with a view to communicating the results in a timely manner to the concerned governments and teachers' organizations. The full report of the 11th Session will be submitted to the March 2013 session of the Governing Body.
4. The appendix contains the CEART's examination of one new case from Portugal. It also contains the CEART's continued review of cases from Australia, Denmark, Ethiopia and Japan that were considered at its Tenth Session in 2009. Those cases were reported to the Governing Body at its 306th Session in November 2009.² Further developments in the case from Japan were reported in the interim report on allegations that was reviewed by the Governing Body at its 312th Session (November 2011).³ At its most recent session, the CEART considered the cases from Australia and Ethiopia closed.

Draft decision

5. The Governing Body:

- (a) *takes note of the relevant parts of the report of the 11th Session of the Joint ILO–UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel relating to allegations on the non-observance of certain provisions of the ILO–UNESCO Recommendation, 1966, or of the UNESCO Recommendation, 1997, in Australia, Denmark, Ethiopia, Japan, and Portugal or both as applicable; and*
- (b) *authorizes the Director-General to communicate the report to the Governments of Australia, Denmark, Ethiopia, Japan and Portugal and to the National Tertiary Education Union (NTEU) of Australia, the National Teachers' Association (formerly Ethiopian Teachers' Association (ETA)),*

¹ The ILO–UNESCO Recommendation concerning the Status of Teachers, 1966, and the UNESCO Recommendation concerning the Status of Higher Education Teaching Personnel, 1997.

² GB.306/LILS/8(&Corr.).

³ GB.312/LILS/7.

the Dansk Magisterforening (DM), Education International, the National Teachers' Federation (FENPROF) of Portugal and the All Japan Teachers' and Staff Union (ZENKYO), and to invite them to take any necessary follow-up action as recommended in the report.

Appendix

Extracts from the report of the 11th Session of the Joint ILO–UNESCO Committee of Experts on the Application of the Recommendations concerning Teaching Personnel

A. *Allegations received since the Tenth Session, 2009*

Allegation received from the National Teachers' Federation (FENPROF) of Portugal

1. FENPROF submitted an allegation to UNESCO's Director-General dated 27 January 2011, concerning the Portuguese Government's alleged disregard for collective bargaining, including absence of negotiation in relation to the reduction of teachers' salaries and suspension of teachers' career progression; and absence of negotiation with regard to legislative measures aimed at introducing changes in the curriculum. According to FENPROF, these actions contradict principles of the 1966 and 1997 Recommendations.
2. UNESCO transmitted the letter to the Portuguese Minister of Education and Science on 7 September 2011, stating that the allegations appeared to fall within the competence of the Joint Committee and requested any observations that the Government considered appropriate.
3. A reply was received from the Minister of Education and Science in November 2011. The Minister replied to FENPROF's two points:
 - (a) Regarding the absence of negotiation with respect to the reduction of salaries and the suspension of teachers' career progression, the Minister noted that Portugal was experiencing a serious economic and financial crisis and the Government had decided to put in place several budgetary measures to respect its commitments to reduce deficits and achieve a balanced public budget to guarantee regular financing of the Portuguese economy. Some measures were approved in Financial Law No. 55-A/2010 of 31 December 2010 on austerity measures for civil servants in public administration. Among these measures were the freezing of career progression and reduction of salaries mentioned by FENPROF in its allegation. All public administration civil servants, and not only teachers, were called to contribute to this effort to reduce budgetary deficits. Furthermore, in relation to the absence of negotiations with the unions on salary reduction, the constitutional tribunal, by decision No. 396/2011, stated that there was no procedural irregularity regarding the lack of participation of representative organizations of workers in the development of the 2011 State Budget Law, since the proposal of the Law was preceded by invitations to trade unions to pronounce themselves on the draft.
 - (b) With regard to legislative measures introducing curriculum modifications, which were allegedly not negotiated with representative teachers' organizations and therefore contrary to the 1966 and 1997 Recommendations, the new Government's entry into function also brought about a change in policy orientation on education. Nonetheless, it was argued that the Government had complied with the requirements of social dialogue and teacher representation through a number of meetings between July and September 2011 at which representatives of FENPROF were present.
4. In response to the Ministry, FENPROF sent a letter and an email dated 15 May 2012 to the Director-General of UNESCO, stating that FENPROF had not been invited to participate in decisions and had not received any invitation as claimed by the Ministry; and even if

there had been such an invitation, it would still have violated Law No. 23/98, of 26 May 1998, which establishes the need for collective bargaining regarding possible amendments of rules on wages or careers. FENPROF also claimed that the Minister of Education and Science had not promoted negotiation, or even listened to teachers' unions, citing several examples.

5. FENPROF's comments were again communicated to the Ministry on 23 May 2012 requesting the latter to send any final remarks by 30 June 2012, in order for this matter to be dealt with accordingly by the Joint Committee at its 11th Session. Since then no reply has been received from the Ministry.

Recommendation

6. The Joint Committee recognizes that many countries are facing difficulties in the context of the current economic crisis. While austerity measures may be part of the measures taken for economic recovery, they cannot be used as an excuse to violate principles of the Recommendation concerning the Status of Teachers, 1966. The Recommendation provides that both salaries and working conditions for teachers should be determined through a process of negotiation between teachers' organizations and the employers of teachers. The Joint Committee recommends that the ILO Governing Body and the Executive Board of UNESCO urge both parties to seek a resolution to this matter in line with the principles of the Recommendation.

B. *Follow-up on allegations considered at the Tenth Session, 2009*

Allegation received from the Dansk Magisterforening (DM) of Denmark

7. The discussion of the allegation received from the DM was discussed at the Joint Committee's Tenth Session and is found in Annex 2 of its report. The Joint Committee requested the ILO to communicate its findings to the Government of Denmark. It urged the Government to engage in effective social dialogue around the issue of performance contracts, and requested the Government and the DM to report on results discussions.
8. In a letter addressed to the Director-General of UNESCO, in August 2011, the Danish Minister of Science, Technology and Innovation reported that there was ongoing dialogue between the Ministry and the DM and with the Danish Confederation of Professional Associations. Moreover, the Danish University Act had been amended in 2011. The amendment had clarified the university's duty to safeguard academic freedom of individual researchers. The law allowed researchers to engage in independent research when they were not performing assigned tasks, and provided that tasks allocated by the rector should not be of a nature that would exclude the possibility of engaging in independent research.
9. In correspondence transmitted to UNESCO on 25 May 2012, the DM did not consider that the situation had significantly improved. The revision of the Danish University Act had been a positive step, but it did not provide for collegial governance of faculty appointments that could guarantee academic freedom. The DM pointed to a recent case at the University of Aarhus, where a professor was allegedly disciplined for questioning university policies about marketing and academic strategy. The DM maintains that the principle of academic freedom also included the freedom to take a critical stance towards university management policies. Moreover, the DM was not consulted regarding the letter from the Minister of Science, Technology and Innovation. There had only been one social dialogue meeting since 2010.

 Recommendation

10. The Joint Committee calls attention to the continued dissatisfaction of the DM and recommends that the Governing Body of the ILO and the Executive Board of UNESCO encourage the Government of Denmark to discuss issues raised in this case with the relevant parties.

C. *Developments in cases previously examined by the Joint Committee*

Allegation received from the National Tertiary Education Union (NTEU) of Australia

11. The details of the allegation and findings are set out in the reports of the Joint Committee at its Ninth Session (2006) and in its interim report of 2008. At its Tenth Session, the Joint Committee requested the parties to keep the Joint Committee informed of further progress and any difficulties encountered in the case. No further information has been received from either party.
12. The Joint Committee considers this case closed unless further information is supplied by the parties.

Allegation received from Education International and the Ethiopian Teachers' Association (ETA)

13. The details of the allegation are set out in the reports of the Joint Committee's Seventh and Eighth Sessions (2000, 2003) and subsequent interim reports. In its interim report of 2008, the Joint Committee considered it necessary to suspend any further consideration of the allegations until further information was received. At its Tenth Session, the Joint Committee once again requested UNESCO to communicate to the Joint Committee the outcomes of actions by its Director-General to use her good offices to improve communications between the Government and teachers' organizations, and requested the parties in the allegation to provide further information to the Joint Committee. No further information has been forthcoming from the parties in this case.
14. As no further information has been received on this case, the Joint Committee considers this case closed.

Allegation received from the All Japan Teachers' and Staff Union (ZENKYO)

15. The details of this allegation and findings are set out in the reports of the Joint Committee at its Eighth and Ninth Sessions (2003, 2006) and in its interim reports of 2005, 2008 and 2011. The 2011 interim report noted that the Government of Japan had presented proposals to implement fundamental changes in employment relations in the public sector in the form of a bill on labour relations for public employees and related bills on the union/management relations system that would allow public employees at national level to conclude collective agreements, establish a new national public employees office, examine the rights of national public employees in regard to dispute resolution mechanisms, and consider local public employee labour relations in terms of compliance with a new national system. The Joint Committee considered that reforms along these lines held promise for a more effective social dialogue climate in relation to the provisions of the 1966 Recommendation, and therefore resolution of the other issues initially raised in this case.
16. The Joint Committee in its 2011 interim report requested the Government and the relevant trade unions to keep the Committee informed of further developments. No further information was received.

Recommendation

17. The Joint Committee considers that there is progress in resolving this case. It recommends to the Governing Body of the ILO and the Executive Board of UNESCO to request both parties to keep it informed of further developments to allow for monitoring of the situation.