



Economic and Social Council

Distr.: General
12 March 2003

Original: English

Commission on Crime Prevention and Criminal Justice

Twelfth session

Vienna, 13-22 May 2003

Item 7 of the provisional agenda*

Use and application of United Nations standards and norms in crime prevention and criminal justice

Standards and norms in crime prevention and criminal justice

Report of the Secretary-General**

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* E/CN.15/2003/1.

** The footnote required in accordance with paragraph 8 of General Assembly resolution 53/208 B, in which the General Assembly decided that, if a report was submitted late to the conference services, the reason should be included in a footnote to the document, was not included in the original submission.

I. Introduction

1. The development and practical application of United Nations standards and norms in crime prevention and criminal justice has been of great concern to the Commission on Crime Prevention and Criminal Justice from the outset of its work, as reflected in Economic and Social Council resolutions 1992/22, section VII, of 30 July 1992 and 1993/34, section III, of 27 July 1993. The topic of United Nations standards and norms in crime prevention and criminal justice has been a standing item of the agenda of the Commission, and the Secretary-General has submitted reports on the standards and norms to the Commission for its consideration.

2. The present report has been prepared in response to the following Economic and Social Council resolutions, each of which was adopted on 24 July 2002: resolution 2002/12, entitled "Basic principles on the use of restorative justice programmes in criminal matters"; resolution 2002/13, entitled "Action to promote effective crime prevention"; resolution 2002/14, entitled "Promoting effective measures to deal with the issues of missing children and sexual abuse or exploitation of children"; and resolution 2002/15, entitled "United Nations standards and norms in crime prevention and criminal justice".

3. The report contains a summary of replies provided by Member States, United Nations entities, other intergovernmental organizations, non-governmental organizations and institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network. The replies reflect a number of initiatives and accomplishments in the use and application of United Nations standards and norms in crime prevention and criminal justice. Those initiatives and accomplishments demonstrate the interest of the international criminal justice community and society at large in pursuing further the path of meeting in a practical and tangible manner the requirements of those standards and norms.

4. Pursuant to section I of Economic and Social Council resolution 2002/15, the Secretary-General convened the Meeting of Experts on the Application of United Nations Standards and Norms in Crime Prevention and Criminal Justice. The Meeting was made possible by the extrabudgetary contributions of the Governments of Austria, Canada and Germany. The recommendations of the Meeting, to be considered by the Commission at its twelfth session pursuant to Council resolution 2002/15, are contained in the report of the Meeting (E/CN.15/2003/10/Add.1).

5. Additional information on the use and application of the standards and norms is contained in the report of the Executive Director on the work of the Centre for International Crime Prevention (E/CN.15/2003/2) and in the report of the Secretary-General on activities of the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network (E/CN.15/2003/4).

II. Use and application of United Nations standards and norms in crime prevention and criminal justice

A. Penal reform

6. In section II of its resolution 2002/15, the Economic and Social Council invited Member States to undertake the necessary efforts to solve the problem of prison overcrowding by, if necessary, introducing or making appropriate use of alternatives to imprisonment; and invited relevant bodies and specialized agencies of the United Nations system, as well as Member States, to continue to provide assistance in the form of advisory services, needs assessment, capacity-building, training or other assistance to States, upon request, in order to enable them to improve prison conditions, reduce prison overcrowding and increase reliance on alternatives to imprisonment.

7. As at 28 February 2003, replies had been received from 15 States (Azerbaijan, Colombia, Finland, Germany, Libyan Arab Jamahiriya, Mexico, Oman, Pakistan, Philippines, Republic of Korea, Senegal, Slovakia, Sweden, Ukraine and United States of America), one United Nations entity (the United Nations Environment Programme (UNEP)), three of the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network (the United Nations Interregional Crime and Justice Research Institute (UNICRI), the Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders and the African Institute for the Prevention of Crime and the Treatment of Offenders) and two non-governmental organizations (the International Council of Women and the International Police Association).

8. Azerbaijan reported on a comprehensive reform of its penal system. On 1 September 2000, the country enacted four new codes (criminal, penal procedure, penitentiary and administrative codes), after they had been reviewed by experts from authoritative international organizations. Regarding the code on penal procedure, Azerbaijan introduced a three-tier judicial system worked out in accordance with international standards and norms. The judiciary was in the process of upgrading its knowledge of international standards and norms and of good judicial practices. The Ministry of the Interior had been responsible for the administration of the prison system until 1993, when the Ministry of Justice took over that task. In 1999, several presidential decrees gave further impetus for the reform of the prison system, guaranteeing the treatment of inmates in accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners.¹ Budget appropriations for the penal system had increased many times over the past few years. Several amnesties (1996-2002) and alternatives to imprisonment had reduced the prison population as at 1 July 2002 to 15,746 inmates and 2,445 detainees—a level below the combined capacity of 21,000.

9. Colombia reported that, in order to reduce overcrowding and improve the national prison system, it had built new penal establishments, implemented new resocialization programmes and trained law enforcement officers in humanitarian issues. Although Colombia was not in a position to make contributions to the United Nations Crime Prevention and Criminal Justice Fund, it was willing to share its expertise through its legal centre programme on various aspects of criminal policy and justice administration.

10. Finland emphasized that, with due respect for national sovereignty and the individual features of criminal law and the criminal justice systems in different countries, the United Nations standards and norms provided a benchmark for the strengthening of the effectiveness of criminal justice processes and the protection of the rights of the persons concerned. Finland promoted non-custodial sanctions and avoided overcrowding (there are only about 75 prisoners per 100,000 inhabitants). The Finnish authorities cooperated with their counterparts in Estonia, Latvia, Lithuania and the Russian Federation in various areas of prison administration (such as youth, female prisoners and prisoners infected with tuberculosis).

11. Germany reported extensively on its policies concerning the reduction of prison overcrowding. It reported on the reform of its sanction law in the area of minor and less serious crimes to avoid the imposition of imprisonment. It noted that community service and other sanctions were to be expanded, such as the frequent imposition of bans on driving for general offences in which a vehicle was used as an instrument in the offence, in particular where the offender abused the driving privilege.

12. The Libyan Arab Jamahiriya reported that it attached great importance to the issue of improving the conditions of correctional and rehabilitation institutions and allocated funds for modifying penal institutions, in particular by guaranteeing the basic rights of convicts serving short terms. The use of fines was being promoted as an alternative to imprisonment.

13. Oman reported that the United Nations standards and norms in crime prevention and criminal justice were included in the penal laws relevant to penal enforcement and rehabilitation and applied in the respective institutions. Moreover, Oman was pursuing alternatives to custodial sanctions in cases involving petty offences. When the sentences did not exceed six months of imprisonment, the convict could serve out the sentence in an institution in which employment would be modestly rewarded. As a preventive measure, Oman had developed economic projects that absorbed unemployment, so that persons without jobs would not turn to crime.

14. Pakistan reported on its plan of institutional reform and capacity-building for the prevention of crime—a priority of the national agenda for good governance. Prison conditions were evaluated throughout the country, especially to determine whether there was an excessive number of inmates awaiting trial. Four courts had been set up in Karachi next to remand prisons to guarantee speedy justice. Such court complexes were being set up with the involvement of non-governmental organizations and the private sector near all major jail premises. The Government had also worked out a judicial reform package through the Asia Foundation and the Asian Development Bank.

15. The Philippines detailed its technical action plan on crime prevention and criminal justice reform in terms of plans and accomplishments for the year 2001. In the area of penal reform, the plan focused on reducing the backlog in processing criminal cases and the overcrowding of prisons. In 2002, the prison population was 22 per cent over the formal prison capacity (23,965 inmates in prison facilities intended for 19,600 inmates)—a level much lower than in 2001. Enormous assistance in rehabilitation was provided by the Asia Crime Prevention Foundation, the Japanese private sector and local non-governmental organizations supporting the

maintenance of the Philippines-Japan Halfway House in Mumtinpura City, operating since 1997 under the Parole and Probation Authority.

16. The Republic of Korea provided data and other information on its efforts to solve the problem of prison overcrowding. As a result of those efforts, in 2001, only 4.2 per cent of all criminal cases involved detention—a marked drop in comparison with the figure for 1991 (7.9 per cent). As at 31 October 2002, the number of inmates in prisons totalled 60,721, exceeding prison capacity by 2,281 inmates. The Republic of Korea had adopted two different measures to address the problem of overcrowding: building and remodelling prison facilities and extending the system of parole; thus, the number of paroled prisoners had increased from 3,005 in 1997 to 10,088 in 2001. Within the above-mentioned scheme, the country was pursuing a legal policy of community service orders.

17. Senegal reported that it had adopted laws modifying its criminal and procedural code and was introducing measures to substitute imprisonment and reduce prison overcrowding (through working and probation, for example).

18. Slovakia reported on its penal reform to strengthen the independence of the judiciary and the impartiality of prosecutors. Other major reforms were still under way and might be finalized by the end of 2004, when the re-codification of law on criminal and penal procedure was to be finalized. The aim of that process was to make imprisonment the last resort in dispensing justice in conjunction with more comprehensive and effective non-custodial measures.

19. Sweden reported on a fundamental principle of its criminal policy, namely, that imprisonment should be avoided to the greatest extent possible. In 2001, a project for close supervision by electronic monitoring was started. Prisoners with long sentences could serve the last four months of their sentences by being monitored electronically. The project had helped to decrease the prison population. Sweden was offering bilateral and multilateral aid through the Swedish International Development Cooperation Agency. Several prison projects had been implemented in Estonia, Lithuania, the Russian Federation and Ukraine and countries in Central Asia (such as Kazakhstan).

20. Ukraine reported on various provisions in its criminal code and penal procedure code that applied to persons found guilty of committing an offence for which the sentence ranged from life imprisonment to fines. Within that range, the criminal code provided for community service, corrective labour, restrictions on freedom and deprivation of liberty for a certain period of time. Ukraine's law dealt with the conditions and procedures governing the serving of sentences and imposition of corrective labour measures on convicts sentenced to imprisonment or non-custodial corrective labour.

21. The United States reported that it had long recognized the importance of setting standards in crime prevention and criminal justice. In 1973, nearly 30 years before the implementation of Economic and Social Council resolution 2002/15, the United States Department of Justice had published a series of standards and policy recommendations concerning all aspects of criminal justice in the United States. The United States reported on its efforts to solve the problem of prison overcrowding, caused in the period 1980-2000 by a steady increase of prisoners, from 139 to 478 per 100,000 inhabitants (in 2001, the rate had dropped to 470 prisoners per 100,000 inhabitants). Jurisdictions in the United States typically addressed the potential for

overcrowding by building additional prison capacity, rather than by mandating early release of prisoners already in their correctional systems. Funds for additional facilities had been provided to some tribal lands for the incarceration of offenders subject to tribal jurisdiction and to other jurisdictions in order to house violent offenders and treat substance abusers, parole violators and so on.

22. UNEP noted that the Johannesburg Principles, adopted at its Global Judges Symposium on the eve of the World Summit on Sustainable Development, called for an intensive technical training/capacity programme that would train both law enforcement officials and judges in environmental law enforcement and crime prevention.

23. UNICRI reported that it had organized an international symposium on the United Nations Convention against Transnational Organized Crime in Turin, Italy, on 22 and 23 February 2002. One item on the agenda of the symposium had been the United Nations standards and norms in crime prevention and criminal justice. UNICRI suggested that strengthening the dissemination and application of the standards and norms should be done at the international and national levels and that it was therefore essential to ask for continuous support from Member States, especially in terms of developing environments to facilitate access to related information and reviewing their use and application.

24. The Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders reported that, in 2002, its 121st international training course, on the enhancement of community-based alternatives to incarceration at all stages of the criminal justice process, had been attended by 25 participants from 13 different countries and several regions. The course syllabus included the question of the implementation of the United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules) (General Assembly resolution 45/110, annex).

25. The International Centre for Criminal Law Reform and Criminal Justice Policy reported that it had published a Prison Needs Assessment Questionnaire and International Prison Policy Development Instrument (www.icclr.law.ubc.ca/Site%20Map/Programs/Prison_Policy.htm), both based on the United Nations standards and norms in crime prevention and criminal justice. The Institute had conducted needs assessments in the prison systems of Botswana and Uganda.

26. The International Council of Women reported that it had raised the awareness of its constituency in the area of the application of United Nations standards and norms in crime prevention and criminal justice.

27. The International Police Association stated that it would support any action for standards and norms undertaken by the Centre for International Crime Prevention and was looking into the possibility of organizing with it a multilateral conference for representatives of national sections of the International Police Association.

B. Administration of juvenile justice

28. In section III of its resolution 2002/15, the Economic and Social Council invited the Centre for International Crime Prevention and Member States to continue, in cooperation with the institutes of the United Nations Crime Prevention

and Criminal Justice Programme network and other entities, subject to the availability of existing funds, to develop and carry out projects to prevent youth crime, to strengthen juvenile justice systems and to improve the rehabilitation and treatment of juvenile offenders, as well as to improve the protection of child victims. As at 28 February 2003, seven countries (Azerbaijan, Finland, Mexico, Oman, Republic of Korea, Ukraine and United States) and three institutes of the United Nations Crime Prevention and Criminal Justice Programme network replied (UNICRI, the Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders and the African Institute for the Prevention of Crime and the Treatment of Offenders) had replied.

29. Azerbaijan reported that it had made strenuous efforts to reform its juvenile justice system. Between 1997 and 2002, it had passed several acts aimed at improving conditions for the development of the younger generation. As a result, in recent years the number of convicted juveniles had dropped by 27 per cent, and 70 per cent of juvenile justice offenders had received non-custodial sentences.

30. Finland reported that, in 1999, its Government had approved an extensive crime prevention programme, much of which was focused on the prevention of various forms of youth crime. One part of the Government's policy was the development of a system of special sanctions for youth offenders.

31. The Libyan Arab Jamahiriya reported on a special system for juvenile justice. Its criminal code provided for several safeguards guaranteeing fair, efficient and speedy procedures, taking due account of the delinquent's age, social status and conditions and the goal of rehabilitation and social reintegration.

32. Mexico reported on legislative and administrative measures concerning the prevention of youth crime and the administration of juvenile justice, adopted with a view to implementing Economic and Social Council resolution 2002/15. Programmes for vocational training and the development of skills had been carried out on the basis of related international treaties and norms, with due respect for human rights. The use of non-custodial treatment, such as welfare support, counselling, non-residential treatment and mediation, was promoted. In the context of juvenile justice reform (but also penal reform in general), steps had been taken to broaden the scope of application of non-custodial treatment measures and modify pre-release procedures in order to reduce overcrowding in detention institutions.

33. Oman had taken into account, in the process of its reform, among other things, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) (General Assembly resolution 40/33, annex), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Assembly resolution 45/113, annex) and the Convention on the Rights of the Child (Assembly resolution 44/25, annex).

34. The Republic of Korea reported on the modernization of 13 juvenile training schools across the country that had foreign language and computer skill laboratories. Schools had practical Chinese and Japanese departments, in recognition of the importance of the relations between the countries of East Asia. They also offered programmes teaching practical manual skills (such as personal computer repairs and the maintenance of automobiles or farming tools) and job placement assistance. The recidivism rate for students who left school had fallen

from 18.5 per cent to 9.9 per cent in a six-month control period. Within one year, it had fallen from 33.2 per cent to 19.5 per cent.

35. Ukraine reported that its penal procedure code dealt with special aspects of criminal judicial procedure related to the prosecution of juvenile offenders. Under the law, there were special measures that might be imposed on the accused juvenile, such as transfer to the care of his or her parents or legal guardians or placement under the administrative supervision of an appropriate childcare institution, provided the juvenile offender had already been attending that institution.

36. The United States emphasized that the initiatives and policy concerning the administration of juvenile justice were developed and implemented in each single state and territory of the United States. The role of the United States Government was to provide leadership and encouragement, to design pilot programmes, to offer technical and grant-based financial assistance addressing specific aspects of juvenile justice, and to evaluate the effectiveness of that assistance. During fiscal year 2000, US\$ 76,540,000 had been made available for projects on separating adult and juvenile offenders in secure institutions, eliminating the practice of detaining or confining juveniles in adult jails and lockups, addressing the disproportionate confinement of minority juveniles in secure juvenile justice system facilities, jails and lockups where such overrepresentation existed and deinstitutionalizing status offenders and non-offenders. Among several important projects, a special project entitled "Balanced Restorative Justice" was designed to promote increased use of restitution, community service, victim-offender mediation and other innovative programmes to hold juvenile offenders accountable and protect the community while, at the same time, developing the competency of juveniles. Another project, entitled "Juvenile Accountability Incentive Block Grants", supported the construction, expansion, renovation and operation of juvenile correction facilities, developing and administering accountability-based sanctions for juvenile offenders, hiring additional prosecutors and juvenile judges. The same project supported the establishment of juvenile gun or drug courts to deal with those categories of delinquents or offenders (also recidivists).

37. UNICRI reported on its involvement in a programme to support the strengthening of children's and youth's rights in Angola. The Institute was helping Angolan institutions in their efforts to set up and manage an effective juvenile justice system comprising efficient juvenile courts and related social services. Within the framework of the programme, the first induction training course, held in April 2002, had involved presidents of provincial courts, provincial court prosecutors, supreme court judges, judges of the family court, social experts and legal assistants. The training course covered international standards on the protection of children and the prevention of juvenile delinquency.

38. The Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders reported that it had carried out, with the assistance of the Japan International Cooperation Agency, a technical assistance project on the Kenyan juvenile delinquent treatment system. In the area of institutional and non-institutional treatment of juveniles, 27 Kenyan officials had received training in the Asia and Far East Institute in the period 2000-2002 on the applicable United Nations standards and norms in juvenile justice and the Convention on the Rights of the Child.

39. The African Institute for the Prevention of Crime and the Treatment of Offenders reported that it had collaborated with a local non-governmental organization in carrying out a pilot project on the social rehabilitation of street children. Altogether, 40 children had gained skills in vocational training and admission to suitable schools and, where possible, had been returned to their families. Owing to financial problems experienced by the African Institute, the project had to be discontinued. Other plans for projects relating to juvenile justice administration were awaiting financing.

C. Missing children and sexual abuse and exploitation of children

40. In section I of its resolution 2002/14 of 24 July 2002, the Economic and Social Council encouraged Member States to facilitate cooperation between the competent authorities and qualified organizations or associations of civil society involved in tracing missing children or in assisting sexually abused or exploited children; called upon Member States to establish appropriate arrangements, to the extent necessary, in accordance with their legislation pertaining to investigations and proceedings, in order to facilitate the mutual exchange, between such organizations or associations and the competent authorities, of appropriate information concerning the tracing of missing or sexually abused or exploited children; and also called upon Member States to examine the possibility, taking into account the resources available, of providing, inter alia, a toll-free hotline or other means of communication or encouraging arrangements, for instance through the use of the Internet, whereby the above-mentioned qualified organizations or associations could make a hotline available 24 hours a day.

41. In section II of its resolution 2002/14, the Economic and Social Council called upon Member States to take immediate steps to provide for the effective and proportional punishment, under their domestic law, of persons who procure or obtain sexual services of children.

42. In section III of its resolution 2002/14, the Economic and Social Council called upon Member States to make every effort to ensure, in conformity with domestic legislation, that the time limit for bringing criminal proceedings in cases involving the sexual abuse or exploitation of a child did not obstruct the effective prosecution of the offender, for instance by considering the possibility of postponing the beginning of the time limit until the child had reached the age of civil majority.

43. As at 28 February 2003, 32 States had responded: Argentina, Azerbaijan, Belgium, Bulgaria, Colombia, Croatia, Denmark, Ethiopia, Germany, Greece, India, Iran (Islamic Republic of), Jordan, Lebanon, Lithuania, Luxembourg, Malta, Mauritius, Mexico, Oman, Peru, Philippines, Qatar, Republic of Korea, Senegal, Slovakia, South Africa, Sweden, Switzerland, Turkey, Ukraine and United States.

1. Action to promote cooperation with civil society

44. Belgium, Bulgaria, Colombia, Croatia, Greece, Germany, India, Iran (Islamic Republic of), Lithuania, Luxembourg, Mexico, Peru, the Philippines, Sweden, Ukraine and the United States had created toll-free hotlines and/or had used other means of communication, such as the Internet, databases on missing children,

databases on paedophiles, cyber police units and emergency alert systems, to trace missing children or assist sexually abused or exploited children.

45. Argentina reported that an agreement between the National Council for Children, Adolescents and the Family, the Association of Judges and Officials of Juvenile and Family Courts, the Federal Police and civil society, represented by the non-governmental organization Missing Children had been signed. As part of the agreement, common guidelines had been adopted for cooperation between governmental and private organizations to prevent offences against children, for the coordination and promotion of the expeditious investigation and prevention of offences and for the creation of cooperative mechanisms for providing assistance to victimized children. The National Commission for the Right to an Identity, in collaboration with various organizations, was conducting the search for missing children. A seminar on sexual exploitation of children held in the tri-border area of Puerto Iguazu (Argentina, Brazil and Paraguay) in 2002 had resulted in the formation of a multisectoral cross-border committee tasked with carrying out activities to prevent and eliminate sexual and commercial exploitation of children in Puerto Iguazu and the surrounding area. A programme for the provision of education on and treatment of domestic violence, mistreatment of children and sexual abuse provided information, counselling and treatment to child victims by trained staff and professionals. Furthermore, in October 2002, a subprogramme had been established at the national level to address the sexual exploitation of children.

46. Belgium reported that a complementary organ to judicial bodies called Child Focus was responsible for supporting investigation activities regarding the disappearance or kidnapping of children, as well as for preventing and combating the sexual exploitation of children. It used a "case manager" method, working on behalf of the children involved and cooperating with the police and the judiciary to ensure that cases were promptly resolved.

47. Bulgaria reported that its State Agency for Child Protection coordinated efforts among different state institutions, as well as non-governmental organizations, aimed at preventing the commercial sexual exploitation of children. The Agency's directorate assisted in developing and implementing the policy of integration with the European Union in the area of children's rights.

48. Colombia stated that it had participated in the formulation of strategies aimed at eliminating, preventing and punishing all forms of sexual abuse of children and had promoted awareness and action involving and committing civil society in the fight against the sexual exploitation of children. Non-governmental organizations, governmental agencies and members of the academic community were participating in a project on the protection of children whose aim was to raise awareness of child sex tourism and its consequences.

49. Croatia had established an office for non-governmental organizations to promote cooperation between governmental and non-governmental organizations by financing projects and jointly organizing various activities. The National Plan of Action for Children, established to define priority measures for the protection of children from sexual abuse, was under review by the Children's Council. The next step towards improving cooperation between the Government and civil society would be the adoption of a protocol on inter-agency cooperation involving all subjects implementing the family law (which included sexual abuse). In 2002,

Croatia adopted the National Plan for Suppression of Trafficking in Persons, which was to create more favourable legal conditions for international cooperation.

50. Germany reported that its police forces were cooperating—on a case-by-case basis—with non-governmental organizations. In order to improve cooperation with civil society on tracing missing children, the law on permissible investigative measures had been revised, in particular regarding public searches.

51. Greece reported that its Ministry of Public Order and non-governmental organizations were cooperating on the application of the Convention on the Rights of the Child by exchanging information on operational aspects and on observation, analysis and reporting on the phenomenon of missing children and sexual abuse or exploitation of children.

52. India reported on CHILDLINE, a 24-hour toll-free emergency telephone outreach service for children in need of care and protection. An international consultation involving 23 countries was organized in August 2000 to explore the possibility of adapting the CHILDLINE service of India to meet the needs of other developing countries. That resulted in the formation of Child Help Line International to assist other developing countries in setting up their own helplines for children in need of care and protection.

53. The Islamic Republic of Iran reported that its Abused Persons' Office had prepared projects on the establishment of centres for the identification of street children and the provision of appropriate housing for them and for establishment of rehabilitation centres for socially abused children and women.

54. Jordan reported that it had established a specialized Family Protection Department that served the interests of children. A royal decree had led to the creation of the National Council for Family Affairs, which coordinated the work of Jordanian governmental and non-governmental organizations in family affairs.

55. Lebanon reported that its Ministry of Social Affairs and a number of non-governmental organizations were working on rehabilitation of children victims of abuse, especially in the context of juvenile delinquency. The non-governmental organization Dar al-Amal (Good shepherd) was an institution that admitted girls aged 12-18 who were victims of sexual abuse, ill treatment, incest and other acts.

56. Luxembourg reported that its ministries had developed special working relations with non-governmental organizations active in the field of child protection. The judiciary was responsible for the exchange and gathering of information relating to the investigation or prosecution of cases involving missing children and sexual abuse or exploitation of children.

57. Malta had set up a task force in September 2002 to coordinate cooperation between all authorities and agencies engaged in the field of child protection.

58. Mauritius reported that the Child Watch Network, consisting of government staff, women's associations, community-based associations, social workers, teachers and counsellors, served as a mutual aid group where participants shared information in order to provide timely support to children and prevent their exploitation.

59. Mexico reported that steps had been taken to locate lost or missing children and support had been given to individuals and non-governmental organizations requesting assistance in tracing children. Mexico had called upon civil society and international organizations to serve in the inter-institutional commission on preventing, combating and eliminating the commercial sexual exploitation of children, with a view to implementing the national action plan for combating the commercial sexual exploitation of children.

60. Peru reported on its child and adolescent defence centres operated by local government, public and private institutions and organizations of civil society to promote and protect the legal rights of children and adolescents. The centres reported to the competent authorities on any crimes or misdemeanours committed against children and maintained information on the circumstances of children in private and public institutions. The Ministry for the Promotion of Women and Social Development received, through its bureau for children and adolescents, cases of missing children involving the abduction of minors by parents or relatives and offered the parties concerned advice and assistance prior to legal proceedings.

61. The Philippines stated that legislative measures being considered by the congress included an act establishing a national strategic missing children recovery programme. An inter-agency committee had been created for the special protection of children from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development. The Philippine National Strategic Framework for Plan Development for Children, involving government agencies and non-governmental organizations, provided comprehensive action aimed at addressing the issues of missing children and the sexual exploitation and abuse of children. The Area-Based Standards Network, consisting of partner agencies of the Department of Social Welfare and Development, facilitated the exchange of information on missing and sexually abused or exploited children.

62. The Republic of Korea reported that its Act on the Punishment of Sexual Crimes and Protection of Victims Thereof and Juvenile Sex Protection Act promoted cooperation between authorities and civil society. The Office of the Prosecutor had collaborated with volunteer organizations in order to implement the Safe School Campaign, dealing with the issue of runaway youth.

63. South Africa reported that it had established an interdepartmental team to address sexual violence against women and children. The team was facilitating a common approach and programmes to curb rape and other violent crimes perpetrated against women and children. The South African Law Commission's enactment of new legislation on sexual offences and the proposed bill on sexual offences should provide for the establishment of a multidisciplinary and intersectoral framework for the management of sexual offences.

64. Sweden reported that several non-governmental organizations had made important contributions to the protection and support of children at the international and national levels. Swedish police were cooperating with social service and health-care authorities, the church and different non-governmental organizations regarding missing or sexually abused children. Higher priority had been given to identifying children in pornographic material.

65. Turkey stated that training activities on child protection had been carried out in close collaboration with the Government, universities, civil society, the Social

Services and Child Protection Agency, the United Nations Children's Fund (UNICEF), the International Labour Organization, the International Criminal Police Organization (Interpol) and other national and international institutions and organizations.

66. Ukraine reported that, with the support of the International Organization for Migration and the Organization for Security and Cooperation in Europe, Ukrainian governmental and non-governmental organizations had developed working contacts with their counterparts in other countries in order to combat trafficking in women and children more effectively. Community youth centres have been established in order to provide shelter to child victims of abuse. In cooperation with public organizations, the Government of Ukraine drafted a new integrated programme for the suppression of trafficking in people for the period 2000-2005 with the intention of introducing stricter penalties for traffickers under criminal law and providing protection for victims. A presidential decree on additional measures to prevent the disappearance of people and improve coordination among law enforcement agencies and other executive bodies in tracing missing individuals was signed in January 2001.

67. The United States reported that the Government and individual states had collaborated with the National Center for Missing and Exploited Children for the purpose of finding and saving missing and exploited children. It was noted that the information on child pornography that the National Center received through its Cybertipline was shared with the law enforcement agencies for investigation. It was also noted that the "America's Missing: Broadcast Emergency Response" (AMBER) programme, developed in 24 states at the local and regional levels, was a voluntary partnership between law enforcement agencies and broadcasters, whereby an urgent bulletin was activated in the event of a more serious case involving child abduction, in which case the whole community would contribute to finding and rescuing the child. The Victim Identification Program was being prepared, in cooperation with the United States Department of Justice and several law enforcement agencies, in order to identify, using images of child pornography, ongoing child sexual abuse and to rescue the child victims.

2. Measures against child prostitution

68. Most States reported that they had taken steps, pursuant to section II of Economic and Social Council resolution 2002/14, to provide for the effective and proportional punishment, under their domestic law, of persons who procured or obtained the sexual services of children. Those measures involved the criminalization and penalization of various types of behaviour jeopardizing the sexual integrity of a child.

69. According to the replies received, the criminal codes of Argentina, Azerbaijan, Bulgaria, Colombia, Croatia, Denmark, Ethiopia, Germany, Greece, Lebanon, Luxembourg, Malta, Mauritius, Mexico, Peru, the Philippines, Qatar, the Republic of Korea, Senegal, Slovakia, Sweden, Turkey and Ukraine contain various provisions to the above effect. In addition, Colombia, Croatia, Denmark, Greece, Lebanon, Mexico and Peru reported on amendments enabling their national legislation to comply with the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (General Assembly resolution 54/263, annex II).

70. Croatia reported that on 15 November 2002, it had adopted the National Plan for the Suppression of Trafficking in Persons, which provided for measures to create more favourable legal conditions for discovering, prosecuting and punishing such crime and to facilitate international cooperation in that area.

71. Germany referred to its Sixth Act on the Reform of Criminal Law (1998), which required stricter evaluation under criminal law and higher sentences in cases involving the sexual abuse of children or the dissemination of child pornography. It was noted that particularly serious cases involving the sexual abuse of children were considered serious crimes and, depending on their severity, were punishable by prison sentences of at least 2-15 years. The reformed law had improved the means of prosecuting German nationals who subjected children under the age of 16 to sexual abuse in countries other than Germany (child sex tourism).

72. Greece reported that, in October 2002, its Parliament adopted an act on the fight against trafficking in human beings, child pornography, the financial exploitation of sexuality in general and assistance to the victims of such acts. According to the act, trafficking in minors, procuring minors for prostitution and the solicitation of minors for prostitution were punishable by no less than 10 years' imprisonment plus a fine.

73. Lebanon reported that articles 500, 514-516, 519, 520, 523, 525 and 526 of its criminal code dealt with child abandonment, kidnapping, enticement, incitement to debauchery and juvenile prostitution.

74. In Lithuania, the national programme for the period 2000-2004 against commercial sexual exploitation and sexual abuse of children was approved in January 2000. A new criminal code, in effect as at 1 January 2003, contained separate chapters related to sexual abuse against persons, including children.

75. Malta referred to amendments to its criminal code, enacted in May 2002, increasing penalties and enabling prosecutors and investigators to bring criminal action against perpetrators on a wider range of abuses.

76. Mauritius reported on a national plan of action being prepared by the Ministry of Women's Rights, Child Development and Family Welfare to ensure that there were comprehensive laws that would cover all aspects of commercial sexual exploitation of children.

77. Oman reported that its criminal code provided penalties against the kidnapping of minors; child abandonment; forced child prostitution; manufacturing, acquiring or distribution of pornographic materials; and bondage and slave trade.

78. South Africa reported that its Law Commission was reviewing legislation on the commercial exploitation of children. The proposed Children's Bill, which would amend the Child Care Act, would provide for the protection and support of child victims of prostitution and pornography.

79. Turkey reported that article 435 of its criminal code established as criminal offences the acts of deceiving and instigating minors to prostitution.

3. Time limits for penal proceedings

80. In accordance with section III of Economic and Social Council resolution 2002/14, several States ensured that the time limit for bringing criminal

proceedings in cases involving the sexual abuse or exploitation of a child did not obstruct the effective prosecution of the offender. Some States were in the process of reviewing their national legislation in order to ensure that the time limit for bringing criminal proceedings in cases involving sexual abuse or exploitation of a child did not obstruct the effective prosecution of a defender.

81. Belgium reported that, according to article 21 of its criminal code, the time limit for action by the public prosecutor on sexual exploitation cases ran from the day when the minor achieved the age of 18.

82. Bulgaria reported that prosecution of the sexual abuse and exploitation of children was excluded by statute of limitations if it had not been claimed in accordance with the deadlines set out in the criminal code.

83. Colombia reported that the time limit for the institution of criminal proceedings with respect to sexual offences was five years in the case of the most minor offences and 20 years in the case of the most serious offences.

84. Croatia stated that according to its criminal code, legal proceedings in cases involving sexual abuse or exploitation of children could not be initiated if a certain period had elapsed since the commission of the offence. The time limit for legal proceedings depended on the gravity of offences.

85. Denmark reported that provisions were introduced in 2002 on the statute of limitations in criminal proceedings, setting the beginning of the time limit (in cases involving sexual abuse of children) for when the child turned 18. That would also be extended to include cases involving trafficking in children.

86. Germany stated that, in its criminal code, the statute of limitations on sexual abuse offences and sexual exploitation of children was set for when the victim reached 18 years of age.

87. Luxembourg noted that, in its law, the public right of action arising from a serious offence was limited to 10 years from the day the offence was committed and to three years in the case of a serious offence. However, the Minister of Justice of Luxembourg was preparing a draft act on victim protection that would provide, inter alia, that the time limit for bringing criminal proceedings in cases involving the sexual abuse or exploitation of children would not begin until the victim reached the age of civil majority.

88. Malta stated that its law ensured that the time limit for initiating criminal proceedings did not obstruct the effective prosecution of the offender.

89. The Philippines noted that, according to its law, the courts were to give preference to the hearing and disposition of cases involving violations of the relevant act. The Department of Social Welfare and Development was reviewing amendments to the act to further ensure that children's rights and welfare would be protected more effectively and that offenders would be prosecuted more effectively.

90. The Republic of Korea reported that the Violence Department and the Detective Division in its Supreme Prosecutor's Office were considering whether the time limit for prosecution should start from the moment that the victim reached the age of civil majority.

91. Sweden stated that in chapter 35, section 4 of its criminal code, the time limit of sanctions was calculated from the date on which the injured party reached or would have reached the age of 15 for crimes defined in the criminal code under chapter 6 (rape, sexual coercion, sexual exploitation of a minor) or an attempt to commit such a crime against a child under 15 years of age. A parliamentary law committee on sexual offences proposed a new regulation on sexual offences that would ensure that the time limits for sanctions for certain sexual offences committed against a child under 18 would be calculated from the date on which the injured party reached or would have reached the age of 18.

92. Turkey reported that its criminal code specified the statute of limitations for crimes of sexual abuse or exploitation of a child. Article 102 stipulated that, in most cases, a prescription of 10 years applied. Article 112 provided for statutory limitations during which a penalty imposed by a court decision could be executed. The length of statutory limitations varied according to the length of imprisonment imposed, regardless of the type of crime committed or the age or sex of the aggrieved party. In most cases, a prescription of 20 years applied for crimes involving the sexual abuse or exploitation of a child.

93. The United States reported that the statute of limitations for offences involving the sexual abuse of a child was significantly higher than for other offences. Proceedings in cases involving the sexual abuse of a child could be initiated any time before the child reached 25 years of age. In addition, the proposals introduced in the Congress would increase the statute of limitations period or eliminate it.

D. Restorative justice

94. Two countries (Croatia and Oman) and one intergovernmental organization (the Council of Europe) sent replies on restorative justice.

95. Croatia reported that it had initiated the procedure for adopting an act on the protection of witnesses and victims of crimes, providing for activities such as reciprocal assistance, exchange of information and providing technical assistance to other countries with a view to the development of restorative justice programmes.

96. Oman reported that it had been making every effort to establish restorative justice, with a view to reducing conventional procedures and spreading social harmony and unity. It noted that Shariah jurists and legal experts had long deduced conciliation on the basis of the Koran and the Sunnah. Omani legislation made litigation involving personal honour and relating to personal interests or involving family relationships contingent upon a complaint by the injured party. An injured party's renunciation of his or her rights at any stage of an action would halt that action. In some cases, the penalty was stayed even if sentence had been passed. In certain cases, the judgement had been a stay of execution of the sentence if the offender satisfied the civil rights (e.g. compensation). Plans were being made to have a mandatory conciliation procedure, without obliging or putting any pressure on the litigants, as suggested by United Nations standards and norms.

97. The Council of Europe drew attention to Recommendation No. R (99) 19, concerning mediation in criminal matters, adopted by the Committee of Ministers on 15 September 1999.

E. Crime prevention

98. On the issue of crime prevention, replies were received from Croatia, Denmark, Finland, Madagascar and Turkey, as well as from UNEP, the Universal Postal Union (UPU), the Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders, the Council of Europe and the International Police Association.

99. Croatia mentioned that the process of strengthening the international, regional and national systems for crime prevention had been enforced by the ratification of international instruments on crime prevention and criminal justice and by the drafting of related national laws.

100. Denmark noted that it had provided technical assistance in a large number of bilateral and multilateral crime prevention projects. It welcomed the provision of technical assistance within existing frameworks, but emphasized that it would like to see the definition of technical assistance clarified.

101. Finland referred to the fact that it provided economic support to the European Institute for Crime Prevention and Control, affiliated with the United Nations, and, through its National Council for Crime Prevention, had actively participated in the work of the European Union Crime Prevention Network, which promoted the accumulation and exchange of information and experiences on good crime prevention practices and made such know-how available to European Union candidate countries and for more general use. Finland also mentioned the cooperation of its National Bureau of Investigation, as well as its research units, such as the Police College, with counterparts abroad, resulting in international experiences being considered during the drafting of crime prevention strategies.

102. Madagascar expressed its support for Economic and Social Council resolution 2002/13 and for technical assistance projects applying the principles of the United Nations Office on Drugs and Crime (formerly known as the Office for Drug Control and Crime Prevention).

103. Turkey offered its support for technical assistance projects and mentioned that its International Academy against Drugs and Organized Crime could provide training for law enforcement officials in other countries in combating drugs and organized crime.

104. UNEP noted its support for the work undertaken by the Centre for International Crime Prevention in the area of crime prevention and expressed the wish for future cooperation on issues of common concern.

105. UPU noted that its Postal Security Action Group was aimed at enhancing security and integrity of the international mail network and had incorporated strong working relationships with numerous international organizations. Seminars and training courses in bio-terrorism, money-laundering and the financial support of terrorism, aviation security and the transport of dangerous goods had been planned in order to improve the safety and security of the international mail network.

106. The Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders referred to its international training courses and seminars on crime prevention for criminal justice officials from developing countries, such as those held recently in China, Kenya and Tajikistan. The Asia and Far East Institute also

mentioned needs assessments that it had undertaken, especially in Asia, technical assistance that it had offered and the extensive international network that it had built up among persons engaged in criminal justice. The Asia and Far East Institute expressed its intention to coordinate its activities closely with the Centre for International Crime Prevention and others working in the field of crime prevention.

107. The Council of Europe made reference to Recommendation Rec(2000)20 of the Committee of Ministers to member States on the role of early psychosocial intervention in the prevention of criminality and Recommendation No. R (99) 22 of the Committee of Ministers to member States concerning prison overcrowding and prison population inflation. It noted that Economic and Social Council resolution 2002/13 had been brought to the attention of the expert committees dealing with partnership in crime prevention and with new ways of dealing with juvenile delinquency.

108. Finally, the International Police Association, referring to the guidelines on crime prevention, stressed the need for cooperation and partnership across borders and the importance of civil society participating in crime prevention measures.

III. Cooperation with other United Nations entities and relevant organizations

109. The United Nations Office on Drugs and Crime took part in several events related to the application of United Nations standards and norms in crime prevention and criminal justice by:

(a) Participating in the third meeting of the United Nations Coordinating Panel on Technical Advice and Assistance in Juvenile Justice, organized by the Office of the United Nations High Commissioner for Human Rights in Geneva, on 12 and 13 September 2002;

(b) Attending the international conference on the theme “Juvenile justice: present and perspectives”, organized by the International Agency for Crime Prevention, Criminal Law and Jurisdiction in Zilina, Slovakia, on 21 and 22 October 2002;

(c) Organizing and conducting a training course on the United Nations crime prevention and criminal justice standards in law enforcement, in cooperation with the International Committee of the Red Cross in Vienna and other locations in Austria from 14 to 18 October 2002;

(d) Taking part in two regional conferences on penal matters, both organized by Penal Reform International:

(i) Pan-African Conference on Prison Reform held under the auspices of the African Commission on Human and People’s Rights and the patronage of the President of Burkina Faso in Ouagadougou on 12 and 13 September 2002;

(ii) Latin American Conference on Penal Reform and Alternatives to Imprisonment, held under the patronage of the Ministry of Justice of Costa Rica and the Latin American Scientific and Technical University (ULACIT) in San José from 6 to 8 November 2002.

IV. Concluding remarks

110. Information provided by Member States, agencies and institutes indicate that the use and application of United Nations standards and norms in crime prevention and criminal justice resulted in changes and reforms being introduced in legal systems in many parts of the world with a view to upgrading and strengthening the capacity of criminal justice systems. The standards and norms will continue to be a valuable source of directives and guidelines against which administrations in various countries can assess their situations and reform needs. Efforts continue to be made to focus attention on the provision of technical cooperation and advisory services in the use and application of the standards and norms. Sustaining those efforts requires the support and involvement of Member States, intergovernmental and non-governmental organizations and relevant institutes.

111. In response to Economic and Social Council resolution 2002/15, the Secretary-General convened a meeting of a group of experts to evaluate the results achieved and the progress made in the application of the standards and norms, to review the present system of reporting and to assess the advantages to be expected in using a cross-sectoral approach. The meeting concluded its consideration of those issues by making concrete proposals for consideration by the Commission. The recommendations of the Meeting of Experts on the Application of United Nations Standards and Norms in Crime Prevention and Criminal Justice, held in Stadtschlaining, Austria, from 10 to 12 February 2003, are contained in chapter II of the report of the Meeting (E/CN.15/2003/10/Add.1). The outcome of the Meeting reaffirmed the usefulness of the United Nations standards and norms in reforming domestic law and strengthening criminal justice institutions. The standards and norms contain internationally recognized principles and approaches on the basis of which capacity-building undertakings can be effected and collaborative arrangements and mechanisms in criminal justice matters can be pursued at various levels. The Commission may wish to provide guidance on how to maximize the benefit of those standards and norms and ensure their use and applicability at various levels.

Notes

¹ See *First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva, 22 August-3 September 1955: report prepared by the Secretariat* (United Nations publication, Sales No. 1956.IV.4), annex I.A.