

**1995/10. Criminal justice action to combat the organized smuggling of illegal migrants across national boundaries**

*The Economic and Social Council,*

*Recalling* that the General Assembly, in its resolution 48/102 of 20 December 1993, requested the Commission on Crime Prevention and Criminal Justice, at its third session, to consider giving special attention to the question of the smuggling of aliens, in order to encourage international cooperation to address that problem within the framework of its mandate,

*Recalling also* its resolution 1994/14 of 25 July 1994, adopted on the recommendation of the Commission on Crime Prevention and Criminal Justice at its third session, in which it, *inter alia*, condemned the practice of smuggling illegal migrants, recognized that such smuggling was a widespread criminal activity frequently involving highly organized international syndicates, acknowledged the substantial role played by organized transnational crime in such smuggling and called upon all States to take effective and expeditious measures, such as the enactment or amendment of domestic criminal law, providing appropriate penalties to combat all aspects of organized crime activities constituting such smuggling,

*Alarmed* by the significant increase in the activities of transnational criminal organizations that profit illicitly by smuggling illegal migrants and threatening the lives and human rights of migrants,

*Concentrating its attention* on crime prevention and criminal justice, in particular the activities of those who organize and facilitate the smuggling of illegal migrants,

*Recognizing* that organized international criminal groups are becoming increasingly active and successful in smuggling individuals across national boundaries,

*Recognizing also* that by trafficking in illegal migrants such criminal groups often make enormous profits that are frequently used to finance numerous other criminal activities, thus bringing great harm to the States concerned,

*Concerned* that such activities endanger the lives of the individual migrants involved and entail severe costs for the international community, including the costs of rescue, medical care, food, housing and transportation,

*Acknowledging* that socio-economic factors influence the problem of illegal migrant smuggling and also contribute to the complexity of current international migration,

*Aware* that smugglers, particularly in the State of destination of the illegal migrants being smuggled, often force migrants into forms of debt bondage or servitude, commonly involving criminal activities, in order to pay for their passage,

*Convinced* of the need for all States to provide humane treatment and to protect fully the human rights of migrants,

*Recognizing* that such illegal migrant smuggling has high social and economic costs, often contributing to official corruption, and burdens law enforcement agencies in all States where illegal migrants transit or are found,

*Recalling* the undertaking of States parties to the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery,<sup>31</sup> done at Geneva on 7 September 1956, to take all practicable and necessary legislative and other measures to bring about, progressively and as soon as possible, the complete abolition or abandonment of the practice of debt bondage,

*Reaffirming* respect for the sovereignty and territorial integrity of all States, including their right to control immigration flows,

*Concerned* that the smuggling of illegal migrants undermines public confidence in policies and procedures for

lawful immigration and for ensuring the protection of genuine refugees,

*Noting* that the smuggling of illegal migrants can involve criminal activities in many States, including the State where the smuggling scheme was planned, the State of nationality of the migrants, the State where the means of transport was prepared, the flag State of any vessels or aircraft that transport the migrants, States through which the migrants transit to their destination or in order to be repatriated, and the State of destination,

*Commending* those States which have enacted effective domestic legislation permitting seizure and forfeiture of all property, both real and personal, that is knowingly used in organized criminal activities aimed at smuggling illegal migrants, as well as all property, both real and personal, which constitutes, or is derived from, the proceeds of the smuggling, illegal transport or labour of illegal migrants,

*Gravely concerned* that a significant number of States have not yet enacted domestic criminal legislation to combat all aspects of the smuggling of illegal migrants,

1. *Condemns once again* the practice of smuggling illegal migrants in violation of international standards and national law, and without regard to the safety, well-being and human rights of the migrants;

2. *Recognizes* that the smuggling of illegal migrants continues to be a widespread international criminal activity frequently involving highly organized international syndicates that traffic in human cargo, without regard for the dangerous and inhumane conditions to which illegal migrants are subjected, and in flagrant violation of domestic laws and international standards;

3. *Acknowledges* the substantial and harmful role played by organized transnational crime in activities related to the smuggling of illegal migrants in many parts of the world;

4. *Urges* States to share information, to coordinate law enforcement activities between national authorities in cooperation with the competent international bodies and carriers engaged in international transport, and otherwise to cooperate, if their law permits, in order to trace and arrest those who organize the smuggling of illegal migrants and to prevent the illegal transport by smugglers of third-country nationals through their territory;

5. *Calls upon* Member States and relevant specialized agencies and international organizations to take into account socio-economic factors and to cooperate at the bilateral and multilateral levels in addressing all aspects of the problem of organized smuggling of illegal migrants, including by promoting technical assistance so as to assist countries, at their request, in developing and implementing policies to prevent and criminalize clandestine traffic in illegal migrants and to punish those who engage in organizing such activity;

6. *Reaffirms* the need fully to observe international and national law in dealing with the smuggling of illegal migrants, including the provision of humane treatment and strict observance of all human rights of migrants;

7. *Reiterates* that international efforts to prevent the smuggling of illegal migrants should not inhibit legal migration or freedom of travel, or undercut the protection provided by international law to refugees;

8. *Encourages* States to take prompt and effective preventive measures, such as increasing vigilance at coastal ports, airports and land borders, as well as enhancing the

professional skills of relevant personnel, to frustrate the objectives and activities of those who organize the smuggling of illegal migrants, thus protecting would-be migrants from exploitation and loss of life;

9. *Calls upon* all States which have not yet done so to take effective and expeditious measures such as the enactment or amendment if necessary of domestic criminal law, with a range of enforcement measures, providing appropriate penalties to combat all aspects of organized criminal activities constituting the smuggling and transport of illegal migrants, such as the production or distribution of false travel documents, money-laundering, extortion and misuse of international commercial aviation and maritime transport in violation of international standards;

10. *Welcomes* the report of the Secretary-General<sup>32</sup> and the note by the Secretariat<sup>33</sup> on measures taken by Member States and relevant specialized agencies and intergovernmental organizations to combat the smuggling of illegal migrants, which were prepared pursuant to General Assembly resolution 48/102;

11. *Requests* the Secretary-General to remind Member States which have not yet done so of the importance of responding to the notes verbales sent to all Member States on 10 February and 9 June 1994 concerning the criminal legislation that they have enacted and other measures that they have taken to combat the smuggling of illegal migrants, and to submit to the Commission on Crime Prevention and Criminal Justice, at its fifth session, an updated report on measures to combat such smuggling, containing a compilation and an analysis of the responses of Member States;

12. *Decides* that the ever-growing problem of organized smuggling of illegal migrants across national borders requires the continuing scrutiny of the international community in general and should be considered by the Commission on Crime Prevention and Criminal Justice at its fifth session in the context of the broader problem of organized transnational crime.

*49th plenary meeting  
24 July 1995*