

Chapter I

Matters calling for action by the Economic and Social Council or brought to its attention

A. Draft resolution to be recommended by the Economic and Social Council for adoption by the General Assembly

1. The Commission on Crime Prevention and Criminal Justice recommends to the Economic and Social Council the approval of the following draft resolution for adoption by the General Assembly:

Preparations for the Twelfth United Nations Congress on Crime Prevention and Criminal Justice

The General Assembly,

Recalling its resolution 56/119 of 19 December 2001 on the role, function, periodicity and duration of the United Nations congresses on the prevention of crime and the treatment of offenders, and its resolution 62/173 of 18 December 2007 on follow-up to the Eleventh United Nations Congress on Crime Prevention and Criminal Justice and preparations for the Twelfth United Nations Congress on Crime Prevention and Criminal Justice, in which it, *inter alia*, accepted the offer of the Government of Brazil to act as host to the Twelfth Congress,

Considering that, pursuant to its resolutions 415 (V) of 1 December 1950 and 46/152 of 18 December 1991, the Twelfth Congress is to be held in 2010,

Bearing in mind the guidelines for and the format of United Nations congresses, as stipulated in paragraph 2 of its resolution 56/119, as well as paragraphs 29 and 30 of the statement of principles and programme of action of the United Nations crime prevention and criminal justice programme, annexed to its resolution 46/152,

Bearing in mind also the conclusions and recommendations contained in the report of the meeting of the Intergovernmental Group of Experts on Lessons Learned from United Nations Congresses on Crime Prevention and Criminal Justice, held in Bangkok from 15 to 18 August 2006,¹ which the Assembly endorsed in its resolution 62/173,

Recognizing the significant contributions of the United Nations congresses on crime prevention and criminal justice in promoting the exchange of experience in research, law and policy development and the identification of emerging trends and issues in crime prevention and criminal justice among States, intergovernmental organizations and individual experts representing various professions and disciplines,

Recalling that, in its resolution 62/173, it requested the Commission on Crime Prevention and Criminal Justice, at its seventeenth session, to finalize the

¹ E/CN.15/2007/6.

programme for the Twelfth Congress and to make its final recommendations on the theme and on the organization of round tables and workshops to be held by panels of experts, through the Economic and Social Council, to the General Assembly,

Recalling also that, in its resolution 62/173, it requested the Secretary-General to prepare a discussion guide for the regional preparatory meetings for the Twelfth Congress,

Recalling further its resolution 60/177 of 16 December 2005, in which it endorsed the Bangkok Declaration on Synergies and Responses: Strategic Alliances in Crime Prevention and Criminal Justice,² adopted by the Eleventh United Nations Congress on Crime Prevention and Criminal Justice, and Economic and Social Council resolution 2005/15 of 22 July 2005, in which the Council endorsed the Bangkok Declaration,

Stressing the importance of undertaking all preparatory activities for the Twelfth Congress in a timely and concerted manner,

Having considered the report of the Secretary-General on follow-up to the Eleventh United Nations Congress on Crime Prevention and Criminal Justice and preparations for the Twelfth United Nations Congress on Crime Prevention and Criminal Justice,³

1. *Notes* the progress made thus far in the preparations for the Twelfth United Nations Congress on Crime Prevention and Criminal Justice;

2. *Decides* to hold the Twelfth Congress in Salvador, Brazil, from 12 to 19 April 2010, with pre-Congress consultations to be held on 11 April 2010;

3. *Also decides* that the high-level segment of the Twelfth Congress shall be held during the last two days of the Congress in order to allow Heads of State or Government and Government ministers to focus on the main substantive agenda items of the Congress;

4. *Further decides* that the main theme of the Twelfth Congress shall be “Comprehensive strategies for global challenges: crime prevention and criminal justice systems and their development in a changing world”;

5. *Approves* the following provisional agenda for the Twelfth Congress, finalized by the Commission on Crime Prevention and Criminal Justice at its seventeenth session:

1. Opening of the Congress.
2. Organizational matters.
3. Children, youth and crime.
4. Provision of technical assistance to facilitate the ratification and implementation of the international instruments related to the prevention and suppression of terrorism.
5. Making the United Nations guidelines on crime prevention work.

² General Assembly resolution 60/177, annex.

³ E/CN.15/2008/14.

6. Criminal justice responses to the smuggling of migrants and trafficking in persons: links to transnational organized crime.
 7. International cooperation to address money-laundering based on existing and relevant United Nations and other instruments.
 8. Recent developments in the use of science and technology by offenders and by competent authorities in fighting crime, including the case of cybercrime.
 9. Strengthening international cooperation in fighting crime-related problems: practical approaches.
 10. Crime prevention and criminal justice responses to violence against migrants, migrant workers and their families.
 11. Adoption of the report of the Congress;
6. *Decides* that the following issues shall be considered in workshops within the framework of the Twelfth Congress:
- (a) International criminal justice education for the rule of law;
 - (b) Survey of United Nations and other best practices in the treatment of prisoners in the criminal justice system;
 - (c) Practical approaches to preventing urban crime;
 - (d) Links between drug trafficking and other forms of organized crime: international coordinated response;
 - (e) Strategies and best practices against overcrowding in correctional facilities;
7. *Requests* the Secretary-General, in cooperation with the institutes of the United Nations Crime Prevention and Criminal Justice Programme network, to prepare a discussion guide for the regional preparatory meetings for the Twelfth United Nations Congress on Crime Prevention and Criminal Justice in a timely manner in order to enable the regional preparatory meetings to commence early in 2009, and invites Member States to be actively involved in that process;
8. *Urges* participants in the regional preparatory meetings to examine the substantive items on the agenda and the topics of the workshops of the Twelfth Congress and to make action-oriented recommendations to serve as a basis for the draft recommendations and conclusions for consideration by the Twelfth Congress and the Commission on Crime Prevention and Criminal Justice at its nineteenth session;
9. *Emphasizes* the importance of the workshops to be held within the framework of the Twelfth Congress, and invites Member States, intergovernmental and non-governmental organizations and other relevant entities to provide financial, organizational and technical support to the United Nations Office on Drugs and Crime and the institutes of the United Nations Crime Prevention and Criminal Justice Programme network for the preparations for the workshops, including the preparation and circulation of relevant background material;

10. *Invites* donor countries to cooperate with developing countries to ensure their full participation, in particular in the workshops;
11. *Requests* the Secretary-General to prepare a plan for the documentation for the Twelfth Congress, in consultation with the extended Bureau of the Commission;
12. *Reiterates* its request to the Secretary-General to facilitate the organization of regional preparatory meetings for the Twelfth Congress and to make available the necessary resources for the participation of the least developed countries in those meetings and in the Congress itself, in accordance with past practice;
13. *Encourages* Governments to undertake preparations for the Twelfth Congress at an early stage by all appropriate means, including, where appropriate, the establishment of national preparatory committees, with a view to contributing to focused and productive discussion on the topics to be discussed in the workshops and to participating actively in the organization of and follow-up to the workshops;
14. *Reiterates its invitation* to Member States to be represented at the Twelfth Congress at the highest possible level, for example, by Heads of State or Government or Government ministers and attorneys general, to make statements on the theme and topics of the Congress and to participate in thematic interactive round tables;
15. *Requests* the Secretary-General to facilitate the organization of ancillary meetings of non-governmental and professional organizations participating in the Twelfth Congress, in accordance with past practice, as well as meetings of professional and geographical interest groups, and to take appropriate measures to encourage the participation of the academic and research community in the Congress;
16. *Again encourages* the relevant specialized agencies, United Nations programmes and intergovernmental and non-governmental organizations, as well as other professional organizations, to cooperate with the United Nations Office on Drugs and Crime in the preparations for the Twelfth Congress;
17. *Requests* the Secretary-General to appoint a Secretary-General and an Executive Secretary of the Twelfth Congress, in accordance with past practice, to perform their functions under the rules of procedure for United Nations congresses on crime prevention and criminal justice;
18. *Requests* the Commission on Crime Prevention and Criminal Justice to accord sufficient time at its eighteenth session to reviewing the progress made in the preparations for the Twelfth Congress, to finalize in good time all the necessary organizational and substantive arrangements and to make its recommendations through the Economic and Social Council to the General Assembly;
19. *Requests* the Secretary-General to ensure the proper follow-up to the present resolution and to report thereon to the General Assembly through the Commission on Crime Prevention and Criminal Justice at its eighteenth session.

B. Draft resolutions for adoption by the Economic and Social Council

2. The Commission on Crime Prevention and Criminal Justice recommends to the Economic and Social Council the adoption of the following draft resolutions:

Draft resolution I

Protection against trafficking in cultural property

The Economic and Social Council,

Recalling General Assembly resolution 56/8 of 21 November 2001, in which the Assembly proclaimed 2002 the United Nations Year for Cultural Heritage, and resolutions 58/17 of 3 December 2003 and 61/52 of 4 December 2006, on the return or restitution of cultural property to the countries of origin,

Recalling also the model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property,⁴ which was adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and welcomed by the General Assembly in its resolution 45/121 of 14 December 1990,

Emphasizing the importance for States of protecting and preserving their cultural heritage in accordance with relevant international instruments such as the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property,⁵ adopted by the United Nations Educational, Scientific and Cultural Organization on 14 November 1970, the Convention on Stolen or Illegally Exported Cultural Objects, adopted at Rome on 24 June 1995 by the International Institute for the Unification of Private Law, and the Convention for the Protection of Cultural Property in the Event of Armed Conflict,⁶ adopted at The Hague on 14 May 1954, and the two Protocols thereto of 14 May 1954 and 26 March 1999,

Reiterating the significance of cultural property as part of the common heritage of humankind and as unique and important testimony of the culture and identity of peoples and the necessity of protecting it,

Reaffirming also the necessity of international cooperation in preventing and combating all aspects of trafficking in cultural property,⁷ and noting that such cultural property is especially transferred through licit markets, such as auctions, including through the Internet,

⁴ Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. B.1.

⁵ United Nations, *Treaty Series*, vol. 823, No. 11806.

⁶ United Nations, *Treaty Series*, vol. 249, No. 3511.

⁷ It is understood that the expression “trafficking in cultural property” shall be interpreted in conformity with the relevant international instruments, including the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

Reaffirming further its resolutions 2004/34 of 21 July 2004, entitled “Protection against trafficking in cultural property”, and 2003/29 of 22 July 2003, entitled “Prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property”,

Recalling the deliberations of the Eleventh United Nations Congress on Crime Prevention and Criminal Justice, and the Bangkok Declaration on Synergies and Responses: Strategic Alliances in Crime Prevention and Criminal Justice,⁸ in which the Congress took note of the increased involvement of organized criminal groups in the theft of and trafficking in cultural property and reaffirmed the fundamental importance of implementation of existing instruments and the further development of national measures and international cooperation in criminal matters, calling upon Member States to take effective action to that end,

Expressing concern about the demand for cultural property, which leads to its loss, destruction, removal, theft and trafficking,

Alarmed at the growing involvement of organized criminal groups in all aspects of trafficking in cultural property,

Expressing regret that the United Nations Office on Drugs and Crime could not convene the expert group meeting envisaged in Economic and Social Council resolution 2004/34, mainly because of the lack of extrabudgetary resources,

Stressing the importance of fostering international law enforcement cooperation to combat trafficking in cultural property and, in particular, the need to increase the exchange of information and experiences in order for competent authorities to operate in a more effective manner,

Stressing also that the entry into force of the United Nations Convention against Transnational Organized Crime⁹ has created a new impetus in international cooperation to counter and curb transnational organized crime, which will in turn lead to innovative and broader approaches to dealing with the various manifestations of such crime, including trafficking in cultural property,

Expressing the need, where appropriate, to strengthen and fully implement mechanisms for the return or restitution of cultural property after it has been stolen or trafficked and for its protection and preservation,

1. *Takes note with appreciation of the report of the Secretary-General on protection against trafficking in cultural property;¹⁰*

2. *Welcomes national, regional and international initiatives for the protection of cultural property, in particular the work of the United Nations Educational, Scientific and Cultural Organization and its Intergovernmental Committee for Promoting the Return of Cultural Property to Its Countries of Origin or Its Restitution in Case of Illicit Appropriation;*

⁸ *Eleventh United Nations Congress on Crime Prevention and Criminal Justice, Bangkok, 18-25 April 2005: report prepared by the Secretariat* (United Nations publication, Sales No. E.05.IV.7), chap. I, resolution 1.

⁹ United Nations, *Treaty Series*, vol. 2225, No. 39574.

¹⁰ E/CN.15/2006/14.

3. *Reiterates* its request that the United Nations Office on Drugs and Crime, in close cooperation with the United Nations Educational, Scientific and Cultural Organization, convene an open-ended intergovernmental expert group meeting, with interpretation in all the official languages of the United Nations, to submit to the Commission on Crime Prevention and Criminal Justice at its eighteenth session relevant recommendations on protection against trafficking in cultural property, including ways of making more effective the model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property,¹¹ and invites Member States and other donors to provide extrabudgetary contributions for those purposes in accordance with the rules and procedures of the United Nations;

4. *Encourages* Member States asserting State ownership of cultural property to consider means of issuing statements of such ownership with a view to facilitating the enforcement of property claims in other States;

5. *Urges* Member States and relevant institutions, as appropriate, to strengthen and fully implement mechanisms to strengthen international cooperation, including mutual legal assistance, in order to combat trafficking in cultural property, including trafficking committed through the use of the Internet, and to facilitate the recovery, return or restitution of cultural property;

6. *Urges* Member States to protect cultural property and prevent trafficking in such property by introducing appropriate legislation, including, in particular, procedures for the seizure, return or restitution of cultural property, promoting education, launching awareness-raising campaigns, mapping and carrying out inventories of cultural property, providing adequate security measures, developing the capacities and human resources of monitoring institutions such as the police, customs services and the tourism sector, involving the media and disseminating information on the theft and pillaging of cultural property;

7. *Also urges* Member States to take effective measures to prevent the transfer of illicitly acquired or obtained cultural property, especially through auctions, including through the Internet, and to effect its return or restitution to its rightful owners;

8. *Further urges* Member States to continue to strengthen international cooperation and mutual assistance for the prevention and prosecution of crime against cultural property that forms part of the cultural heritage of peoples, and to ratify and implement the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property¹² and other relevant international instruments;

9. *Requests* the United Nations Office on Drugs and Crime to develop its relations with the cooperative network established among the United Nations Educational, Scientific and Cultural Organization, the International Council of Museums, the International Criminal Police Organization (INTERPOL), the International Institute for the Unification of Private Law and the World Customs

¹¹ Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. B.1.

¹² United Nations, *Treaty Series*, vol. 823, No. 11806.

Organization in the areas of trafficking in cultural property and its return or restitution;

10. *Requests* the Secretary-General to report to the Commission on Crime Prevention and Criminal Justice at its nineteenth session on the implementation of the present resolution.

Draft resolution II

Strengthening prevention of urban crime: an integrated approach

The Economic and Social Council,

Recalling General Assembly resolution 62/175 of 18 December 2007 on strengthening the United Nations Crime Prevention and Criminal Justice Programme, in particular its technical cooperation capacity, in which the Assembly reaffirmed the importance of the United Nations Crime Prevention and Criminal Justice Programme in promoting effective action to strengthen international cooperation in crime prevention and criminal justice, as well as of the work of the United Nations Office on Drugs and Crime in the fulfilment of its mandate in crime prevention and criminal justice, including providing to Member States, upon request and as a matter of high priority, technical cooperation, advisory services and other forms of assistance, and coordinating with and complementing the work of all relevant and competent United Nations bodies and offices, and recalling that, in its resolution, the Assembly drew attention to urban crime as an emerging policy issue,

Recalling also its resolution 2007/12 of 25 July 2007 on the strategy for the period 2008-2011 for the United Nations Office on Drugs and Crime, in which community-centred crime prevention was designated a result area,

Mindful of its resolution 1995/9 of 24 July 1995, in which it adopted guidelines for cooperation and technical assistance in the field of urban crime prevention, and its resolution 2002/13 of 24 July 2002, in which it accepted the Guidelines for the Prevention of Crime contained in the annex to that resolution,

Recalling its resolutions 2005/22 of 22 July 2005 on action to promote effective crime prevention and 2006/20 of 27 July 2006 on United Nations standards and norms in crime prevention, in which it acknowledged the need to achieve a balanced approach between crime prevention and criminal justice responses,

Considering that the fight against crime can effectively reach its objectives through a combination of national policies on criminal justice and crime prevention to address the causes of crime and violence, bearing in mind that allocating resources to crime prevention can greatly reduce the financial and social costs of crime,

Recognizing the importance of the engagement between civil society and law enforcement authorities in the planning and implementation of crime prevention activities,

Recalling the commitments made by the international community in the United Nations Millennium Declaration,¹³ in particular regarding the fight against crime and the objective of making the right to development a reality for everyone,

1. *Encourages* Member States to adopt and strengthen, as appropriate, effective urban crime prevention responses, with a view to achieving an appropriate balance with criminal justice actions;
2. *Also encourages* Member States to integrate crime prevention considerations into all relevant social and economic policies and programmes in order to effectively address the conditions in which crime and violence can emerge;
3. *Requests* the United Nations Office on Drugs and Crime to explicitly address the crime prevention component in its programme of work and reporting, where relevant, including good practices that integrate crime prevention and criminal justice;
4. *Invites* Member States and other donors to provide extrabudgetary contributions to the United Nations Office on Drugs and Crime to support technical assistance activities in this area, in accordance with the rules and procedures of the United Nations.

Draft resolution III

International cooperation in preventing and combating illicit international trafficking in forest products, including timber, wildlife and other forest biological resources

The Economic and Social Council,

Recalling its resolutions 2001/12 of 24 July 2001 and 2003/27 of 22 July 2003, on illicit trafficking in protected species of wild flora and fauna, and its resolutions 2000/35 of 18 October 2000 and 2006/49 of 28 July 2006, concerning the international arrangements on forests,

Bearing in mind the relevance of international instruments such as the Convention on Biological Diversity¹⁴ and the Convention on International Trade in Endangered Species of Wild Flora and Fauna,¹⁵

Recalling also General Assembly resolution 62/98 of 17 December 2007, by which the Assembly adopted the non-legally binding instrument on all types of forests, contained in the annex to that resolution,

Recalling further resolution 16/1 of the Commission on Crime Prevention and Criminal Justice, adopted at its sixteenth session,

Noting with concern that illicit international trafficking in forest products, including timber, wildlife and other forest biological resources, constitutes a major source of concern because such activities have an adverse environmental, social and economic impact on many countries,

¹³ General Assembly resolution 55/2.

¹⁴ United Nations, *Treaty Series*, vol. 1760, No. 30619.

¹⁵ Ibid., vol. 993, No. 14537.

1. *Takes note with appreciation* of the report of the meeting of the Open-ended Expert Group on International Cooperation in Preventing and Combating Illicit International Trafficking in Forest Products, including Timber, Wildlife and Other Forest Biological Resources, held in Jakarta from 26 to 28 March 2008;¹⁶
2. *Encourages* Member States to continue to provide the United Nations Office on Drugs and Crime with information on measures taken pursuant to resolution 16/1 of the Commission on Crime Prevention and Criminal Justice, taking into consideration the emphasis that the Open-ended Expert Group, in its report, placed on, *inter alia*, the need for holistic and comprehensive national multisectoral approaches to preventing and combating illicit international trafficking in forest products, including timber, wildlife and other forest biological resources, as well as for international coordination and cooperation in support of such approaches, including through technical assistance activities to build the capacity of relevant national officials and institutions;
3. *Requests* the Executive Director of the United Nations Office on Drugs and Crime to make available the text of the present resolution and the report of the Open-ended Expert Group to the Conference of the Parties to the United Nations Convention against Transnational Organized Crime at its fourth session;
4. *Also requests* the Executive Director of the United Nations Office on Drugs and Crime to report on the implementation of the present resolution and to provide a brief summary of the mandates and the work of other relevant organizations in this area to the Commission on Crime Prevention and Criminal Justice at its eighteenth session.

C. Draft decisions for adoption by the Economic and Social Council

3. The Commission on Crime Prevention and Criminal Justice recommends to the Economic and Social Council the adoption of the following draft decisions:

Draft decision I

Report of the Commission on Crime Prevention and Criminal Justice on its seventeenth session and provisional agenda and documentation for its eighteenth session

The Economic and Social Council:

- (a) Takes note of the report of the Commission on Crime Prevention and Criminal Justice on its seventeenth session;
- (b) Decides that the topics for the thematic discussion at the eighteenth session of the Commission will be:
 - (i) “Economic fraud and identity-related crime”;

¹⁶ E/CN.15/2008/20.

- (ii) “Penal reform and the reduction of prison overcrowding, including the provision of legal aid in criminal justice systems”;
- (c) Decides also that the discussion on each of the themes will have a duration of one day;
- (d) Approves the provisional agenda and documentation for the eighteenth session set out below.

Provisional agenda and documentation for the eighteenth session of the Commission on Crime Prevention and Criminal Justice

A. Provisional agenda

- 1. Election of officers.
- 2. Adoption of the agenda and organization of work.
- 3. Thematic discussion:
 - (a) “Economic fraud and identity-related crime”;
 - (b) “Penal reform and the reduction of prison overcrowding, including the provision of legal aid in criminal justice systems”.
- 4. World crime trends and responses: integration and coordination of efforts by the United Nations Office on Drugs and Crime and by Member States in the field of crime prevention and criminal justice:
 - (a) Work of the United Nations Office on Drugs and Crime in facilitating the ratification and implementation of the United Nations Convention against Transnational Organized Crime;
 - (b) Work of the United Nations Office on Drugs and Crime in facilitating the ratification and implementation of the United Nations Convention against Corruption;
 - (c) Work of the United Nations Office on Drugs and Crime in facilitating the ratification and implementation of the international instruments to prevent and combat terrorism;
 - (d) Other activities in support of the work of the United Nations Office on Drugs and Crime, in particular activities of the United Nations Crime Prevention and Criminal Justice Programme network, non-governmental organizations and other bodies.
- 5. Preparations for the Twelfth United Nations Congress on Crime Prevention and Criminal Justice.
- 6. Use and application of United Nations standards and norms in crime prevention and criminal justice.
- 7. Policy directives for the crime programme of the United Nations Office on Drugs and Crime and the role of the Commission on Crime Prevention and Criminal Justice as its governing body, including administrative, strategic management and budgetary questions and follow-up to resolutions.
- 8. Provisional agenda for the nineteenth session.

9. Other business.
10. Adoption of the report of the Commission on its eighteenth session.

B. Documentation

1. Election of officers.
2. Adoption of the agenda and organization of work.

Documentation

Provisional agenda, annotations and proposed organization of work.

3. Thematic discussion:
 - (a) “Economic fraud and identity-related crime”;
 - (b) “Penal reform and reduction of prison overcrowding, including the provision of legal aid in criminal justice systems”.

Documentation

Note by the Secretariat (*as required*)

4. World crime trends and responses: integration and coordination of efforts by the United Nations Office on Drugs and Crime and by Member States in the field of crime prevention and criminal justice.

Documentation

Report of the Secretary-General on international cooperation in combating transnational organized crime and corruption

Report of the Secretary-General on assistance in implementing the universal conventions and protocols related to terrorism

Report of the Secretary-General on international cooperation in the prevention, investigation, prosecution and punishment of economic fraud and identity-related crime

Report of the Executive Director on the activities of the United Nations Office on Drugs and Crime

Report of the Executive Director on international cooperation in preventing and combating illicit international trafficking in forest products, including timber, wildlife and other forest biological resources

Report of the Secretary-General on the activities of the institutes of the United Nations Crime Prevention and Criminal Justice Programme network

Note by the Secretariat on world crime trends and responses: integration and coordination of efforts by the United Nations Office on Drugs and Crime and by Member States in the field of crime prevention and criminal justice (*as required*)

5. Preparations for the Twelfth United Nations Congress on Crime Prevention and Criminal Justice.

Documentation

Report of the Secretary-General on the follow-up to General Assembly resolution 63/[...], entitled “Preparations for the Twelfth United Nations Congress on Crime Prevention and Criminal Justice”

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

Documentation

Report of the Secretary-General on United Nations standards and norms in crime prevention and criminal justice

Report of the Secretary-General on support of national efforts for child justice reform, in particular through technical assistance and improved United Nations system-wide coordination

Report of the Secretary-General on international cooperation for the improvement of access to legal aid in criminal justice systems, particularly in Africa

7. Policy directives for the crime programme of the United Nations Office on Drugs and Crime and the role of the Commission on Crime Prevention and Criminal Justice as its governing body, including administrative, strategic management and budgetary questions and follow-up to resolutions.

Documentation

Report of the Executive Director on the implementation of the consolidated budget for the biennium 2008-2009 for the United Nations Office on Drugs and Crime

Report of the Executive Director on the consolidated budget for the biennium 2010-2011 for the United Nations Office on Drugs and Crime (*to be submitted for the reconvened eighteenth session*)

Report of the Executive Director on programmes and initiatives to be implemented by the United Nations Office on Drugs and Crime in the biennium 2010-2011 (*as required*)

Report of the Executive Director on ways and means of improving the financial situation of the United Nations Office on Drugs and Crime (*as required*)

Report of the Advisory Committee on Administrative and Budgetary Questions on the consolidated budget for the biennium 2010-2011 for the United Nations Office on Drugs and Crime (*to be submitted for the reconvened eighteenth session*)

Note by the Secretary-General transmitting the report of the Board of Trustees of the United Nations Interregional Crime and Justice Research Institute

8. Provisional agenda for the nineteenth session.
9. Other business.
- 10 Adoption of the report of the Commission on its eighteenth session.

Draft decision II

Appointment of members of the Board of Trustees of the United Nations Interregional Crime and Justice Research Institute

The Economic and Social Council decides to endorse the reappointment of Pedro R. David (Argentina) and the appointment of Eduardo Fungairiño (Spain) by the Commission on Crime Prevention and Criminal Justice at its seventeenth session, and to the Board of Trustees of the United Nations Interregional Crime and Justice Research Institute.

D. Matters brought to the attention of the Economic and Social Council

4. The following resolutions and decisions adopted by the Commission are brought to the attention of the Economic and Social Council:

Resolution 17/1

Efforts in the fight against trafficking in persons

The Commission on Crime Prevention and Criminal Justice,

Recalling the United Nations Convention against Transnational Organized Crime¹⁷ and, in particular, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,¹⁸ and other relevant instruments,

Recalling also General Assembly resolution 61/180 of 20 December 2006, on improving the coordination of efforts against trafficking in persons, and Economic and Social Council resolution 2006/27 of 27 July 2006, on strengthening international cooperation in preventing and combating trafficking in persons and protecting victims of such trafficking,

Recalling further its decisions 16/1 and 16/2, concerning the Global Initiative to Fight Human Trafficking,

Underlining the need to continue to work towards a comprehensive and coordinated approach to the problem of trafficking in persons through the appropriate national, regional and international mechanisms,

1. *Welcomes* the Vienna Forum to Fight Human Trafficking, held from 13 to 15 February 2008, as a part of the awareness-raising efforts to fight human trafficking;

2. *Requests* the United Nations Office on Drugs and Crime to continue consultations with Member States and to ensure that the Global Initiative to Fight Human Trafficking is carried out as a technical assistance project within the

¹⁷ United Nations, *Treaty Series*, vol. 2225, No. 39574.

¹⁸ Ibid., vol. 2237, No. 39574.

mandates agreed by the relevant governing bodies and to brief Member States on the workplan of the Global Initiative, to be executed before the end of the project, in 2009;

3. *Also requests* the United Nations Office on Drugs and Crime, within its existing mandate, to use the Conference of the Parties to the United Nations Convention against Transnational Organized Crime and, when appropriate and justified, other relevant intergovernmental mechanisms to continue to raise public awareness, increase knowledge, facilitate cooperation and partnerships and implement actions to combat human trafficking;

4. *Urges* Member States that have not yet done so to consider taking measures to ratify or accede to the United Nations Convention against Transnational Organized Crime¹⁹ and, in particular, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;²⁰

5. *Encourages* Member States to continue to strengthen their national policies and their cooperation with the United Nations system to combat human trafficking;

6. *Invites* Member States to take measures, such as raising public awareness, to discourage the demand that fosters all forms of exploitation, in accordance with the Trafficking in Persons Protocol, where applicable;

7. *Requests* the United Nations Office on Drugs and Crime, in its capacity as coordinator of the Inter-Agency Cooperation Group against Trafficking in Persons, to report on its activities to the Commission at its eighteenth session;

8. *Invites* Member States to consider the possibility of providing voluntary contributions to the United Nations Office on Drugs and Crime, in accordance with the rules and regulations of the United Nations, for the conduct of technical assistance activities to ensure the effective implementation of the Organized Crime Convention and the Trafficking in Persons Protocol;

9. *Also invites* Member States to actively participate in the thematic debate of the General Assembly on human trafficking, to be held in June 2008.

Resolution 17/2

Strengthening the rule of law through improved integrity and capacity of prosecution services

The Commission on Crime Prevention and Criminal Justice,

Recalling the Charter of the United Nations, the Universal Declaration of Human Rights²¹ and the International Covenant on Civil and Political Rights,²² which enshrine, in particular, the principles of equality before the law, the

¹⁹ Ibid., vol. 2225, No. 39574.

²⁰ Ibid., vol. 2237, No. 39574.

²¹ General Assembly resolution 217 A (III).

²² General Assembly resolution 2200 A (XXI), annex.

presumption of innocence and the right to a fair and public hearing by a competent, independent and impartial tribunal established by law,

Recalling also the International Covenant on Economic, Social and Cultural Rights,²³

Recalling further the United Nations Convention against Corruption,²⁴ in particular its article 11, on measures relating to the judiciary and prosecution services,

Convinced that corruption of members of prosecution services undermines the rule of law and adversely affects public confidence in the justice system and that the integrity, independence and impartiality of prosecutors are essential prerequisites for the effective protection of human rights and economic development,

Recalling the Guidelines on the Role of Prosecutors,²⁵ adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana from 27 August to 7 September 1990,

Recalling also Economic and Social Council resolution 2007/22 of 26 July 2007, on strengthening basic principles of judicial conduct, in which the Council requested the United Nations Office on Drugs and Crime, inter alia, to explore the development of technical cooperation projects and activities aimed at strengthening the integrity and capacity of other criminal justice institutions, in particular prosecution services and the police, in cooperation with the initiatives of States and relevant international organizations,

Welcoming the report of the Secretary-General on strengthening justice, integrity and the rule of law through technical assistance in developing, transitional and post-conflict societies, with a focus on Africa,²⁶ and the progress made by the United Nations Office on Drugs and Crime in implementing Economic and Social Council resolution 2007/22, as described in that report,

Acknowledging the important work carried out by international and regional forums, including the International Association of Prosecutors, in the development and dissemination of standards and measures to strengthen the conduct of prosecution services,

Convinced that the Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors, developed by the International Association of Prosecutors, are complementary to the Guidelines on the Role of Prosecutors,

1. *Requests the United Nations Office on Drugs and Crime to circulate the Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors, annexed to the present resolution, to Member States for their consideration and comments;*

²³ General Assembly resolution 2200 A (XXI), annex.

²⁴ United Nations, *Treaty Series*, vol. 2349, No. 42146.

²⁵ *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. C.26, annex.

²⁶ E/CN.15/2008/12.

2. *Also requests* the United Nations Office on Drugs and Crime to prepare, by the third quarter of 2008, a structured, verbatim compilation of the comments received from Member States, as an addendum to the Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors;

3. *Invites* Member States, consistent with their domestic legal systems, to encourage their prosecution services to take into consideration the Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors and the above-mentioned addendum when reviewing or developing rules with respect to the professional and ethical conduct of members of prosecution services;

4. *Requests* the United Nations Office on Drugs and Crime to continue to provide, upon request by Member States, technical assistance, including, as appropriate, material and tools, such as the Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors and the above-mentioned addendum, to allow such Member States to strengthen the integrity and capacity of their prosecution services;

5. *Invites* Member States and other donors to provide extrabudgetary contributions for the above-mentioned purposes, in accordance with the rules and procedures of the United Nations;

6. *Requests* the Secretary-General to report to the Commission on Crime Prevention and Criminal Justice at its twentieth session on the implementation of the present resolution.

Annex*

Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors

WHEREAS the objects of the International Association of Prosecutors are set out in Article 2.3 of its Constitution and include the promotion of fair, effective, impartial and efficient prosecution of criminal offences, and the promotion of high standards and principles in the administration of criminal justice;

WHEREAS the United Nations, at its Eighth Congress on the Prevention of Crime and the Treatment of Offenders in Havana, Cuba in 1990, adopted Guidelines on the Role of Prosecutors;

WHEREAS the community of nations has declared the rights and freedoms of all persons in the United Nations Universal Declaration of Human Rights and subsequent international covenants, conventions and other instruments;

WHEREAS the public need to have confidence in the integrity of the criminal justice system;

WHEREAS all prosecutors play a crucial role in the administration of criminal justice;

WHEREAS the degree of involvement, if any, of prosecutors at the investigative stage varies from one jurisdiction to another;

* The present annex is reproduced in the form in which it was received.

WHEREAS the exercise of prosecutorial discretion is a grave and serious responsibility;

AND WHEREAS such exercise should be as open as possible, consistent with personal rights, sensitive to the need not to re-victimise victims and should be conducted in an objective and impartial manner;

THEREFORE the International Association of Prosecutors adopts the following as a statement of standards of professional conduct for all prosecutors and of their essential duties and rights:

1. PROFESSIONAL CONDUCT

Prosecutors shall:

- a) at all times maintain the honour and dignity of their profession;
- b) always conduct themselves professionally, in accordance with the law and the rules and ethics of their profession;
- c) at all times exercise the highest standards of integrity and care;
- d) keep themselves well-informed and abreast of relevant legal developments;
- e) strive to be, and to be seen to be, consistent, independent and impartial;
- f) always protect an accused person's right to a fair trial, and in particular ensure that evidence favourable to the accused is disclosed in accordance with the law or the requirements of a fair trial;
- g) always serve and protect the public interest;
- h) respect, protect and uphold the universal concept of human dignity and human rights.

2. INDEPENDENCE

- 2.1 The use of prosecutorial discretion, when permitted in a particular jurisdiction, should be exercised independently and be free from political interference.
- 2.2 If non-prosecutorial authorities have the right to give general or specific instructions to prosecutors, such instructions should be:
 - transparent;
 - consistent with lawful authority;
 - subject to established guidelines to safeguard the actuality and the perception of prosecutorial independence.
- 2.3 Any right of non-prosecutorial authorities to direct the institution of proceedings or to stop legally instituted proceedings should be exercised in similar fashion.

3. IMPARTIALITY

Prosecutors shall perform their duties without fear, favour or prejudice. In particular they shall:

- a) carry out their functions impartially;
- b) remain unaffected by individual or sectional interests and public or media pressures and shall have regard only to the public interest;
- c) act with objectivity;
- d) have regard to all relevant circumstances, irrespective of whether they are to the advantage or disadvantage of the suspect;
- e) in accordance with local law or the requirements of a fair trial, seek to ensure that all necessary and reasonable enquiries are made and the result disclosed, whether that points towards the guilt or the innocence of the suspect;
- f) always search for the truth and assist the court to arrive at the truth and to do justice between the community, the victim and the accused according to law and the dictates of fairness.

4. ROLE IN CRIMINAL PROCEEDINGS

4.1 Prosecutors shall perform their duties fairly, consistently and expeditiously.

4.2 Prosecutors shall perform an active role in criminal proceedings as follows:

- a) where authorised by law or practice to participate in the investigation of crime, or to exercise authority over the police or other investigators, they will do so objectively, impartially and professionally;
- b) when supervising the investigation of crime, they should ensure that the investigating services respect legal precepts and fundamental human rights;
- c) when giving advice, they will take care to remain impartial and objective;
- d) in the institution of criminal proceedings, they will proceed only when a case is well-founded upon evidence reasonably believed to be reliable and admissible, and will not continue with a prosecution in the absence of such evidence;
- e) throughout the course of the proceedings, the case will be firmly but fairly prosecuted; and not beyond what is indicated by the evidence;
- f) when, under local law and practice, they exercise a supervisory function in relation to the implementation of court decisions or perform other non-prosecutorial functions, they will always act in the public interest.

4.3 Prosecutors shall, furthermore:

- a) preserve professional confidentiality;
- b) in accordance with local law and the requirements of a fair trial, consider the views, legitimate interests and possible concerns of victims and witnesses, when their personal interests are, or might be, affected, and seek to ensure that victims and witnesses are informed of their rights; and similarly seek to ensure that any aggrieved party is informed of the right of recourse to some higher authority/court, where that is possible;

- c) safeguard the rights of the accused in co-operation with the court and other relevant agencies;
- d) disclose to the accused relevant prejudicial and beneficial information as soon as reasonably possible, in accordance with the law or the requirements of a fair trial;
- e) examine proposed evidence to ascertain if it has been lawfully or constitutionally obtained;
- f) refuse to use evidence reasonably believed to have been obtained through recourse to unlawful methods which constitute a grave violation of the suspect's human rights and particularly methods which constitute torture or cruel treatment;
- g) seek to ensure that appropriate action is taken against those responsible for using such methods;
- h) in accordance with local law and the requirements of a fair trial, give due consideration to waiving prosecution, discontinuing proceedings conditionally or unconditionally or diverting criminal cases, and particularly those involving young defendants, from the formal justice system, with full respect for the rights of suspects and victims, where such action is appropriate.

5. CO-OPERATION

In order to ensure the fairness and effectiveness of prosecutions, prosecutors shall:

- a) co-operate with the police, the courts, the legal profession, defence counsel, public defenders and other government agencies, whether nationally or internationally; and
- b) render assistance to the prosecution services and colleagues of other jurisdictions, in accordance with the law and in a spirit of mutual co-operation.

6. EMPOWERMENT

In order to ensure that prosecutors are able to carry out their professional responsibilities independently and in accordance with these standards, prosecutors should be protected against arbitrary action by governments. In general they should be entitled:

- a) to perform their professional functions without intimidation, hindrance, harassment, improper interference or unjustified exposure to civil, penal or other liability;
- b) together with their families, to be physically protected by the authorities when their personal safety is threatened as a result of the proper discharge of their prosecutorial functions;
- c) to reasonable conditions of service and adequate remuneration, commensurate with the crucial role performed by them and not to have their salaries or other benefits arbitrarily diminished;

- d) to reasonable and regulated tenure, pension and age of retirement subject to conditions of employment or election in particular cases;
- e) to recruitment and promotion based on objective factors, and in particular professional qualifications, ability, integrity, performance and experience, and decided upon in accordance with fair and impartial procedures;
- f) to expeditious and fair hearings, based on law or legal regulations, where disciplinary steps are necessitated by complaints alleging action outside the range of proper professional standards;
- g) to objective evaluation and decisions in disciplinary hearings;
- h) to form and join professional associations or other organisations to represent their interests, to promote their professional training and to protect their status; and
- i) to relief from compliance with an unlawful order or an order which is contrary to professional standards or ethics.

Decision 17/1

Strengthening crime prevention and criminal justice responses to violence against women and girls

At its 10th meeting, on 18 April 2008, the Commission on Crime Prevention and Criminal Justice, reaffirming the Declaration on the Elimination of Violence against Women²⁷ and the Beijing Declaration and Platform for Action²⁸ adopted by the Fourth World Conference on Women, held in Beijing from 4 to 15 September 1995, and in particular, the determination of Governments to prevent and eliminate all forms of violence against women and girls, reaffirming also the programme of action adopted at the International Conference on Population and Development, held in Cairo from 5 to 13 September 1994, as well as the outcome of the twenty-third special session of the General Assembly, entitled “Women 2000: gender, equality, development and peace for the twenty-first century”,²⁹ and the declaration adopted at the forty-ninth session of the Commission on the Status of Women,³⁰ stressing that all forms of violence against women and girls constitute not only a violation of the human rights and fundamental freedoms of women but also have serious socio-economic consequences that hinder the achievement of gender equality and development, recognizing that effective and integrated criminal justice responses to all forms of violence against women and girls require close cooperation between all key stakeholders, including law enforcement officials, prosecutors, victim advocates, medical professionals and forensic scientists, and mindful that the Model Strategies and Practical Measures on the Elimination of Violence against

²⁷ General Assembly resolution 48/104.

²⁸ *Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995* (United Nations publication, Sales No. E.96.IV.13), chap. I, resolution 1, annexes I and II.

²⁹ General Assembly resolution S-23/2, annex, and resolution S-23/3, annex.

³⁰ See *Official Records of the Economic and Social Council, 2005, Supplement No. 7* and corrigendum (E/2005/27 and Corr.1), chap. 1, sect. A; see also Economic and Social Council decision 2005/232.

Women in the Field of Crime Prevention and Criminal Justice (General Assembly resolution 52/86, annex) were developed ten years ago and should be reviewed by Member States, in a manner consistent with their legal systems, in order to reflect current developments and research, taking into account, inter alia, new approaches and prevention tools and good practices:

(a) Strongly condemned all acts of violence against women and girls, including violence against women migrants and women migrant workers, whether those acts are perpetrated by the State, by private persons or by non-State actors, and called for the elimination of all forms of gender-based violence in the family, within the general community and where perpetrated or condoned by the State;

(b) Stressed that violence against women means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including the threat of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life;

(c) Requested the United Nations Office on Drugs and Crime to convene an intergovernmental group of experts with equitable geographical representation, in cooperation with the institutes of the United Nations Crime Prevention and Criminal Justice Programme network, the Commission on the Status of Women and the Special Rapporteur on violence against women, its causes and consequences, to review and update, as appropriate, the Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice, taking into account current developments, research, tools and the outcome of the deliberations of the Commission on Crime Prevention and Criminal Justice at its seventeenth session, and to make recommendations on addressing violence against women and girls, to be considered by the Commission at its nineteenth session, and invited Member States and other donors to provide extrabudgetary contributions for those purposes in accordance with the rules and procedures of the United Nations;

(d) Welcomed the offer of the Government of Thailand to act as host to the meeting of the intergovernmental group of experts, to be held in 2008;

(e) Requested the Executive Director of the United Nations Office on Drugs and Crime to report to the Commission on Crime Prevention and Criminal Justice at its nineteenth session on the implementation of the present decision.

Decision 17/2

Improving the governance and financial situation of the United Nations Office on Drugs and Crime

At its 10th meeting, on 18 April 2008, the Commission on Crime Prevention and Criminal Justice, recalling the strategy for the period 2008-2011 for the United Nations Office on Drugs and Crime³¹ and also recalling paragraphs 8, 9 and 10 of its resolution 16/6, entitled “Budget for the biennium 2008-2009 for the United Nations Crime Prevention and Criminal Justice Fund”:

³¹ Economic and Social Council resolution 2007/12, annex.

- (a) Took note of the report of the Executive Director entitled “Financial issues and difficulties faced by the United Nations Office on Drugs and Crime in implementing its mandates and an initial assessment of the ways and means of improving the financial situation”;³²
- (b) Also took note of the note by the Secretariat on resolutions and decisions relating to crime prevention and criminal justice adopted in the period 2003-2007 in which action by the United Nations Office on Drugs and Crime was requested;³³
- (c) Further took note of the report by the Executive Director on the deviations from the standard programme support charge of 13 per cent during the period 2005-2007;³⁴
- (d) Decided to establish an open-ended intergovernmental working group to discuss and prepare, taking into account, *inter alia*, the documents mentioned above, recommendations to be submitted to the Commission at its eighteenth session on how to ensure political ownership by the Member States and on how to improve the governance structure and financial situation of the United Nations Office on Drugs and Crime;
- (e) Requested the United Nations Office on Drugs and Crime to provide the working group with the necessary assistance to carry out its work.

³² E/CN.7/2008/11-E/CN.15/2008/15.

³³ E/CN.15/2008/18.

³⁴ E/CN.7/2008/14-E/CN.15/2008/19.