

“4. *Also suggests* that the following issues be considered by workshops within the framework of the Eleventh Congress, and notes that Member States may refine these issues and propose additional workshop topics at future intersessional meetings of the Commission for finalization at its twelfth session:

“(a) Measures to combat economic crime: the role of the private sector;

“(b) Cross-border law enforcement cooperation;

“(c) Human rights in criminal justice;

“(d) Restorative justice: community involvement, diversion and other alternative measures;

“(e) Links between transnational organized crime and terrorism;

“(f) Measures to combat high-technology and computer-related crime;

“(g) Measures to combat money-laundering;

“(h) Combating corruption;

“(i) Crime prevention strategies for youth at risk;

“(j) Current practices in and ways of over-coming obstacles to extradition;

“5. *Requests* the Secretary-General to facilitate the organization of regional preparatory meetings for the Eleventh Congress;

“6. *Also requests* the Secretary-General to prepare, in cooperation with the United Nations Crime Prevention and Criminal Justice Programme Network of Institutes, a discussion guide for the regional preparatory meetings for the Eleventh Congress for the consideration of the Commission, and invites Member States to be involved actively in that process;

“7. *Accepts with gratitude* the offer of the Government of Thailand to host the Eleventh Congress, and requests the Secretary-General to initiate consultations with the Government of Thailand and to report to the Commission at its twelfth session;

“8. *Decides* that the duration of the Eleventh Congress shall not exceed eight days, including pre-Congress consultations;

“9. *Invites* Member States to be represented at the Eleventh 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;

“10. *Encourages* relevant specialized agencies, United Nations programmes and intergovernmental and

non-governmental organizations, as well as other professional organizations, to cooperate with the Centre for International Crime Prevention of the Office for Drug Control and Crime Prevention of the Secretariat in the preparations for the Eleventh Congress;

“11. *Reiterates its request* to the Secretary-General to provide the Centre for International Crime Prevention with the necessary resources, within the overall appropriations of the programme budget for the biennium 2002–2003, for the preparations for the Eleventh Congress and to ensure that adequate resources are provided in the programme budget for the biennium 2004–2005 to support the holding of the Congress;

“12. *Requests* the Secretary-General to make available the necessary resources for the participation of the least developed countries in the regional preparatory meetings for the Eleventh Congress and at the Congress itself, in accordance with past practice;

“13. *Requests* the Commission, at its twelfth session, to finalize the programme for the Eleventh Congress and to make its final recommendations, through the Economic and Social Council, to the General Assembly;

“14. *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 twelfth session.”

*37th plenary meeting
24 July 2002*

2002/12. Basic principles on the use of restorative justice programmes in criminal matters

The Economic and Social Council,

Recalling its resolution 1999/26 of 28 July 1999, entitled “Development and implementation of mediation and restorative justice measures in criminal justice”, in which the Council requested the Commission on Crime Prevention and Criminal Justice to consider the desirability of formulating United Nations standards in the field of mediation and restorative justice,

Recalling also its resolution 2000/14 of 27 July 2000, entitled “Basic principles on the use of restorative justice programmes in criminal matters”, in which it requested the Secretary-General to seek comments from Member States and relevant intergovernmental and non-governmental organizations, as well as the United Nations Crime Prevention and Criminal Justice Programme Network of Institutes, on the desirability and the means of establishing common principles on the use of restorative justice programmes in criminal matters, including the advisability of developing a new instrument for that purpose,

Taking into account the existing international commitments with respect to victims, in particular the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power,⁵²

Noting the discussions on restorative justice during the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, under the agenda item entitled “Offenders and victims: accountability and fairness in the justice process”,⁵³

Taking note of General Assembly resolution 56/261 of 31 January 2002, entitled “Plans of action for the implementation of the Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century”, in particular the action on restorative justice in order to follow up the commitments undertaken in paragraph 28 of the Vienna Declaration,⁵⁴

Noting with appreciation the work of the Group of Experts on Restorative Justice at their meeting held in Ottawa from 29 October to 1 November 2001.

Taking note of the report of the Secretary-General on restorative justice⁵⁵ and the report of the Group of Experts on Restorative Justice,⁵⁶

1. *Takes note* of the basic principles on the use of restorative justice programmes in criminal matters annexed to the present resolution;

2. *Encourages* Member States to draw on the basic principles on the use of restorative justice programmes in criminal matters in the development and operation of restorative justice programmes;

3. *Requests* the Secretary-General to ensure the widest possible dissemination of the basic principles on the use of restorative justice programmes in criminal matters among Member States, the United Nations Crime Prevention and Criminal Justice Programme Network of Institutes and other international, regional and non-governmental organizations;

4. *Calls upon* Member States that have adopted restorative justice practices to make information about those practices available to other States upon request;

5. *Also calls upon* Member States to assist one another in the development and implementation of research, training or

other programmes, as well as activities to stimulate discussion and the exchange of experience on restorative justice;

6. *Further calls upon* Member States to consider, through voluntary contributions, the provision of technical assistance to developing countries and countries with economies in transition, on request, to assist them in the development of restorative justice programmes.

37th plenary meeting
24 July 2002

Annex

Basic principles on the use of restorative justice programmes in criminal matters

Preamble

Recalling that there has been, worldwide, a significant growth of restorative justice initiatives,

Recognizing that those initiatives often draw upon traditional and indigenous forms of justice which view crime as fundamentally harmful to people,

Emphasizing that restorative justice is an evolving response to crime that respects the dignity and equality of each person, builds understanding, and promotes social harmony through the healing of victims, offenders and communities,

Stressing that this approach enables those affected by crime to share openly their feelings and experiences, and aims at addressing their needs,

Aware that this approach provides an opportunity for victims to obtain reparation, feel safer and seek closure; allows offenders to gain insight into the causes and effects of their behaviour and to take responsibility in a meaningful way; and enables communities to understand the underlying causes of crime, to promote community well-being and to prevent crime,

Noting that restorative justice gives rise to a range of measures that are flexible in their adaptation to established criminal justice systems and that complement those systems, taking into account legal, social and cultural circumstances,

Recognizing that the use of restorative justice does not prejudice the right of States to prosecute alleged offenders,

I. Use of terms

1. “Restorative justice programme” means any programme that uses restorative processes and seeks to achieve restorative outcomes.

2. “Restorative process” means any process in which the victim and the offender, and, where appropriate, any other individuals or community members affected by a crime, participate together actively in the resolution of matters arising

⁵² General Assembly resolution 40/34, annex.

⁵³ See *Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Vienna, 10–17 April 2000: report prepared by the Secretariat* (United Nations publication, Sales No. E.00.IV.8), chap. V, sect. E.

⁵⁴ General Assembly resolution 55/59, annex.

⁵⁵ E/CN.15/2002/5 and Corr.1.

⁵⁶ E/CN.15/2002/5/Add.1.

from the crime, generally with the help of a facilitator. Restorative processes may include mediation, conciliation, conferencing and sentencing circles.

3. “Restorative outcome” means an agreement reached as a result of a restorative process. Restorative outcomes include responses and programmes such as reparation, restitution and community service, aimed at meeting the individual and collective needs and responsibilities of the parties and achieving the reintegration of the victim and the offender.

4. “Parties” means the victim, the offender and any other individuals or community members affected by a crime who may be involved in a restorative process.

5. “Facilitator” means a person whose role is to facilitate, in a fair and impartial manner, the participation of the parties in a restorative process.

II. Use of restorative justice programmes

6. Restorative justice programmes may be used at any stage of the criminal justice system, subject to national law.

7. Restorative processes should be used only where there is sufficient evidence to charge the offender and with the free and voluntary consent of the victim and the offender. The victim and the offender should be able to withdraw such consent at any time during the process. Agreements should be arrived at voluntarily and should contain only reasonable and proportionate obligations.

8. The victim and the offender should normally agree on the basic facts of a case as the basis for their participation in a restorative process. Participation of the offender shall not be used as evidence of admission of guilt in subsequent legal proceedings.

9. Disparities leading to power imbalances, as well as cultural differences among the parties, should be taken into consideration in referring a case to, and in conducting, a restorative process.

10. The safety of the parties shall be considered in referring any case to, and in conducting, a restorative process.

11. Where restorative processes are not suitable or possible, the case should be referred to the criminal justice authorities and a decision should be taken as to how to proceed without delay. In such cases, criminal justice officials should endeavour to encourage the offender to take responsibility vis-à-vis the victim and affected communities, and support the reintegration of the victim and the offender into the community.

III. Operation of restorative justice programmes

12. Member States should consider establishing guidelines and standards, with legislative authority when necessary, that govern the use of restorative justice programmes. Such

guidelines and standards should respect the basic principles set forth in the present instrument and should address, inter alia:

(a) The conditions for the referral of cases to restorative justice programmes;

(b) The handling of cases following a restorative process;

(c) The qualifications, training and assessment of facilitators;

(d) The administration of restorative justice programmes;

(e) Standards of competence and rules of conduct governing the operation of restorative justice programmes.

13. Fundamental procedural safeguards guaranteeing fairness to the offender and the victim should be applied to restorative justice programmes and in particular to restorative processes:

(a) Subject to national law, the victim and the offender should have the right to consult with legal counsel concerning the restorative process and, where necessary, to translation and/or interpretation. Minors should, in addition, have the right to the assistance of a parent or guardian;

(b) Before agreeing to participate in restorative processes, the parties should be fully informed of their rights, the nature of the process and the possible consequences of their decision;

(c) Neither the victim nor the offender should be coerced, or induced by unfair means, to participate in restorative processes or to accept restorative outcomes.

14. Discussions in restorative processes that are not conducted in public should be confidential, and should not be disclosed subsequently, except with the agreement of the parties or as required by national law.

15. The results of agreements arising out of restorative justice programmes should, where appropriate, be judicially supervised or incorporated into judicial decisions or judgements. Where that occurs, the outcome should have the same status as any other judicial decision or judgement and should preclude prosecution in respect of the same facts.

16. Where no agreement is reached among the parties, the case should be referred back to the established criminal justice process and a decision as to how to proceed should be taken without delay. Failure to reach an agreement alone shall not be used in subsequent criminal justice proceedings.

17. Failure to implement an agreement made in the course of a restorative process should be referred back to the restorative programme or, where required by national law, to the established criminal justice process and a decision as to how to proceed should be taken without delay. Failure to implement an agreement, other than a judicial decision or judgement, should not be used as justification for a more severe sentence in subsequent criminal justice proceedings.

18. Facilitators should perform their duties in an impartial manner, with due respect to the dignity of the parties. In that capacity, facilitators should ensure that the parties act with respect towards each other and enable the parties to find a relevant solution among themselves.

19. Facilitators shall possess a good understanding of local cultures and communities and, where appropriate, receive initial training before taking up facilitation duties.

IV. Continuing development of restorative justice programmes

20. Member States should consider the formulation of national strategies and policies aimed at the development of restorative justice and at the promotion of a culture favourable to the use of restorative justice among law enforcement, judicial and social authorities, as well as local communities.

21. There should be regular consultation between criminal justice authorities and administrators of restorative justice programmes to develop a common understanding and enhance the effectiveness of restorative processes and outcomes, to increase the extent to which restorative programmes are used, and to explore ways in which restorative approaches might be incorporated into criminal justice practices.

22. Member States, in cooperation with civil society where appropriate, should promote research on and evaluation of restorative justice programmes to assess the extent to which they result in restorative outcomes, serve as a complement or alternative to the criminal justice process and provide positive outcomes for all parties. Restorative justice processes may need to undergo change in concrete form over time. Member States should therefore encourage regular evaluation and modification of such programmes. The results of research and evaluation should guide further policy and programme development.

V. Saving clause

23. Nothing in these basic principles shall affect any rights of an offender or a victim which are established in national law or applicable international law.

2002/13. Action to promote effective crime prevention

The Economic and Social Council,

Bearing in mind its resolution 1996/16 of 23 July 1996, in which it requested the Secretary-General to continue to promote the use and application of United Nations standards and norms in crime prevention and criminal justice matters,

Recalling the elements of responsible crime prevention: standards and norms, annexed to its resolution 1997/33 of 21 July 1997, in particular those relating to community

involvement in crime prevention contained in paragraphs 14 to 23 of that annex, as well as the revised draft elements of responsible crime prevention prepared by the Expert Group Meeting on Elements of Responsible Crime Prevention: Addressing Traditional and Emerging Crime Problems, held in Buenos Aires from 8 to 10 September 1999,

Taking note of the international colloquium of crime prevention experts convened in Montreal, Canada, from 3 to 6 October 1999, by the Governments of Canada, France and the Netherlands, in collaboration with the International Centre for the Prevention of Crime in Montreal, as a preparatory meeting for the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Noting that the draft elements of responsible crime prevention were considered at the workshop on community involvement in crime prevention held at the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Vienna from 10 to 17 April 2000,

Acknowledging the need to update and finalize the draft elements of responsible crime prevention,

Aware of the scope for significant reductions in crime and victimization through knowledge-based approaches, and of the contribution that effective crime prevention can make in terms of the safety and security of individuals and their property, as well as the quality of life in communities around the world,

Taking note of General Assembly resolution 56/261 of 31 January 2002, entitled "Plans of action for the implementation of the Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century", in particular the action on crime prevention in order to follow up the commitments undertaken in paragraphs 11, 13, 20, 21, 24 and 25 of the Vienna Declaration,⁵⁴

Convinced of the need to advance a collaborative agenda for action with respect to the commitments made in the Vienna Declaration,

Noting with appreciation the work of the Group of Experts on Crime Prevention at their meeting held in Vancouver, Canada, from 21 to 24 January 2002, and the work of the Secretary-General in preparing a report on the results of that interregional meeting, containing revised draft guidelines for crime prevention and proposed priority areas for international action,⁵⁷

Recognizing that each Member State is unique in its governmental structure, social characteristics and economic capacity and that those factors will influence the scope and implementation of its crime prevention programmes,

⁵⁷ E/CN.15/2002/4.