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## **Commission on Crime Prevention and Criminal Justice**

### **Thirty-second session**

Vienna, 22–26 May 2023

Agenda item 5

### **Thematic discussion on enhancing the functioning of the criminal justice system to ensure access to justice and to realize a safe and secure society**

#### **Canada, Chile and Peru: revised draft resolution**

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:

#### **Equal access to justice for all**

*The General Assembly,*

*Reaffirming* resolution 70/1 of 25 September 2015, entitled “Transforming our world: the 2030 Agenda for Sustainable Development”, in which it adopted a comprehensive, far-reaching and people-centred set of universal and transformative Sustainable Development Goals and targets which are indivisible, integrated and balance the three dimensions of sustainable development, and in which it recognized that eradicating poverty in all its forms and dimensions, including extreme poverty, is the greatest global challenge and an indispensable requirement for sustainable development, and in which it committed to achieving sustainable development in its three dimensions, economic, social and environmental – in a balanced and integrated manner,

*Recalling* Sustainable Development Goal 16 to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels, and bearing in mind that the 2030 Agenda, inter alia, envisaged a world of universal respect for human rights and human dignity, the rule of law, justice, equality and non-discrimination,

*Recognizing* the importance of providing technical assistance and capacity-building, upon request, to Member States, in particular developing countries, to support their efforts in crime prevention and criminal justice, including in the area of access to justice,

*Recalling also* the Universal Declaration of Human Rights,<sup>1</sup> which affirms that all are equal before the law and all are entitled without any discrimination to equal protection of the law, as well as all are entitled to equal protection against any

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<sup>1</sup> Resolution 217 A (III).

discrimination in violation of the Declaration and against any incitement to such discrimination, and which also enshrines the key principles of equality before the law and the presumption of innocence, as well as the right to a fair and public hearing by an independent and impartial tribunal, along with all the guarantees necessary for the defence of anyone charged with a penal offence, other minimum guarantees and the entitlement to be tried without undue delay,

*Recalling* also the Kyoto Declaration on Advancing Crime Prevention, Criminal Justice and the Rule of Law: Towards the Achievement of the 2030 Agenda for Sustainable Development, adopted by the fourteenth crime congress, held in Kyoto, Japan, from 7 to 12 March, 2021, in which member states undertook to contribute to achieving the 2030 Agenda for Sustainable Development through efforts in crime prevention and criminal justice, with the firm recognition that sustainable development and the rule of law are interlinked and mutually reinforcing, that crime is an impediment to sustainable development and that achieving sustainable development is an enabling factor for States to effectively prevent and combat crime,

*Recalling* paragraph 48 of the Kyoto Declaration on Advancing Crime Prevention, Criminal Justice and the Rule of Law: Towards the Achievement of the 2030 Agenda for Sustainable Development,<sup>2</sup> adopted by the Fourteenth United Nations Congress on Crime Prevention and Criminal Justice, held in Kyoto, Japan, from 7 to 12 March 2021, in which Member States endeavoured to ensure equal access to justice and application of the law to all, including vulnerable members of society, regardless of their status, including by taking appropriate measures to ensure treatment with respect and without discrimination or bias of any kind by criminal justice institutions,

*Taking note of* all relevant United Nations standards and norms in crime prevention and criminal justice, in particular the Code of Conduct for Law Enforcement Officials,<sup>3</sup> the Basic Principles on the Independence of the Judiciary,<sup>4</sup> the Bangalore Principles of Judicial Conduct,<sup>5</sup> the Istanbul Declaration on Transparency in the Judicial Process and Measures for Effective Implementation of the Istanbul Declaration<sup>6</sup>, the Guidelines on the Role of Prosecutors,<sup>7</sup> the Basic Principles on the Role of Lawyers,<sup>8</sup> the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power,<sup>9</sup> the basic principles on the use of restorative justice programmes in criminal matters,<sup>10</sup> the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems,<sup>11</sup> the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules),<sup>12</sup> the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules),<sup>13</sup> the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules),<sup>14</sup>

<sup>2</sup> Resolution 76/181, annex.

<sup>3</sup> Resolution 34/169, annex.

<sup>4</sup> *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August–6 September 1985: report prepared by the Secretariat* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. D.2, annex.

<sup>5</sup> E/CN.4/2003/65, annex; see also Economic and Social Council resolution 2006/23, annex.

<sup>6</sup> Reference to be added during the editing process

<sup>7</sup> *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.

<sup>8</sup> *Ibid.*, chap. I, sect. B.3, annex.

<sup>9</sup> Resolution 40/34, annex.

<sup>10</sup> Economic and Council resolution 2002/12, annex.

<sup>11</sup> Resolution 67/187, annex.

<sup>12</sup> Resolution 45/110, annex.

<sup>13</sup> Resolution 65/229, annex.

<sup>14</sup> Resolution 70/175, annex.

*Recalling* the International Covenant on Civil and Political Rights,<sup>15</sup> the International Covenant on Economic, Social and Cultural Rights, the United Nations Convention on the Rights of the Child, the International Convention on the Elimination of All Forms of Racial Discrimination,<sup>16</sup> the Convention on the Rights of Persons with Disabilities,<sup>17</sup> and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

*Underscoring* the role of the Commission as the principal policymaking body of the United Nations in the field of crime prevention and criminal justice, and underscoring the primary role and responsibility of member states in defining their policies in enhancing the functioning of their criminal justice systems to ensure equal access to justice for all,

*Recalling* ECOSOC resolution 2019/22, in which Member States inter alia, recognize that certain members of society, such as children, victims of violence and individuals with special needs, are to be accorded additional protection and are more vulnerable when in contact with the criminal justice system,

*Emphasizing* the importance of respecting cultural diversity when designing and implementing policies and programmes relevant to access to justice, in accordance with national legislation,

*Recognizing* that the COVID-19 pandemic has severely affected the functioning of criminal justice systems and access to justice, especially for the poor and people in vulnerable situations,

*Affirming* the need to eradicate violence, discrimination and intolerance against people in vulnerable situations, Indigenous Peoples and local communities,

*Recognizing* that the primary responsibility for crime prevention and criminal justice, including mainstreaming a gender perspective, rests with Member States,

*Recognizing* the different challenges faced for accessing justice for people living in rural and isolated areas and the need to adopt policies and programs that are responsive to those challenges,

*Recalling* the mandate of the International Independent Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement, which includes coordinating its work and strengthening its engagement with the United Nations Office on Drugs and Crime and the United Nations Congress on Crime Prevention and Criminal Justice, and making recommendations on the concrete steps needed to ensure access to justice for Africans and people of African descent subject to excessive use of force and other human rights violations by law enforcement officials,

*Recognizing* that access to legal aid is an essential element of fair, humane and efficient criminal justice systems that are based on the rule of law and that it is a foundation for the enjoyment of other rights, including the right to a fair trial, as a precondition to exercising such rights and an important safeguard that ensures fairness and public trust in the criminal justice process, and can contribute to the progressive realization of economic, social and cultural rights,

*Recognizing* the importance of training of criminal justice practitioners, such as police, lawyers and judges, to carry out their responsibilities in a non-discriminatory manner,

*Recalling* CCPCJ resolution 27/6 entitled ‘Restorative justice’,

*Underlining* the importance of effective international cooperation, in a technical and impartial manner and to the fullest extent possible, in line with States’ obligations under international law and domestic legislation, and underlining also in this respect the importance of strengthening law enforcement cooperation and exchange of

<sup>15</sup> Resolution 2200 A (XXI), annex.

<sup>16</sup> United Nations, *Treaty Series*, vol. 660, No. 9464.

<sup>17</sup> *Ibid.*, vol. 2515, No. 44910.

information, as well as facilitating the procedures related to international cooperation, including, inter alia, mutual legal assistance requests and extradition, as appropriate and consistent with domestic law and applicable international obligations, to contribute to access to justice,

*Taking note* of the Secretary-General's report entitled "Our Common Agenda",

1. *Notes with concern* that challenges to access to justice in criminal justice systems undermine the rule of law, the achievement of safe and secure societies, and the right to equal treatment before the law;

2. *Emphasizes* the right of equal access to justice for all, including people in vulnerable situations, and the importance of awareness-raising concerning legal rights, and in this regard, commits to taking all necessary steps to provide fair, transparent, effective, non-discriminatory and accountable services that promote access to justice for all, including legal aid;

3. *Takes note of* the thematic discussion on enhancing the functioning of the criminal justice system to ensure access to justice and to realize a safe and secure society, held during the thirty-second session of the Commission on Crime Prevention and Criminal Justice, which provided an opportunity for Member States, international organizations and civil society to exchange viewpoints on this matter;

4. *Takes note of* its decision to hold a high-level debate on the theme "Equal access to justice for all: advancing reforms for peaceful, just and inclusive societies", and invites the Commission to consider the outcomes of that debate;

5. *Encourages Member States, in accordance with their domestic legislation and within their capacity*, to ensure equal access to justice and application of the law to all, including by taking effective measures that are informed by relevant data, such as age and gender;

6. *Encourages* Member States to collect and use quantitative and qualitative data, disaggregated by relevant factors, to ensure that criminal justice policies and programmes are informed by all available and relevant evidence and data;

7. *Encourages* Member States to explore cross-sectoral, multidisciplinary, multi-stakeholder, holistic and integrated partnerships, strategies and approaches at the national level, when developing measures to reduce inequities in the criminal justice system, and to advance equal access to justice and equal treatment before the law for all, including through restorative justice programmes;

8. *Encourages* Member States to promote the use of technology that fosters inclusive and equitable access to justice, including by addressing the challenges that the use of such technologies may pose for people in vulnerable situations;

9. *Also encourages* Member States to, as appropriate, employ different models of legal aid, and to consider effective ways to provide access to legal aid to ensure access to justice for all, without discrimination of any kind;

10. *Encourages* Member States, in accordance with their domestic law, to promote and implement policies aimed at guaranteeing access to justice for people in vulnerable situations without sufficient means, through timely, effective, adequately resourced and affordable and, whenever possible, free legal aid promoted by the State with the appropriate support of relevant academia;

11. *Affirms* the importance that certain members of society, such as children, persons with disabilities, those in vulnerable situations and victims of violence are to be given additional protection in order to access justice systems;

12. *Requests* the UNODC to continue developing technical tools and training material based on UN standards and norms in crime prevention and criminal justice and to provide technical and material assistance to Member States, upon request, to ensure access to justice for all;

13. *Welcomes* the increased cooperation and coordination between the United Nations Office on Drugs and Crime and other United Nations agencies in the area of equal access to justice;

14. *Also requests* the United Nations Office on Drugs and Crime to convene a meeting of experts, nominated by Member States, during the intersessional period, with interpretation into all United Nations official languages, subject to the availability of extrabudgetary resources, with a view to share information on challenges, lessons learned, best practices and enabling factors need to enhance the functioning of the criminal justice systems to ensure equal access to justice for all;

15. *Recognizes* the fundamental role of effective international cooperation in preventing and combating crime and to this end, underlines the importance of addressing, tackling and effectively responding to international challenges and barriers, in particular measures, that hinder such cooperation, and which are not consistent with the Charter of the United Nations and obligations under international law, and in this regard urges States, consistent with their international obligations, to refrain from applying such measures;

16. *Requests* the UNODC to report to the Commission on Crime Prevention and Criminal Justice at its thirty-fourth session on the meeting of experts and on the implementation of the present resolution;

17. *Invites* Member States and other donors to provide extrabudgetary resources for the purposes described above, in accordance with the rules and procedures of the United Nations.

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