

## ECOSOC Resolution 2004/35

### **Combating the spread of HIV/AIDS in criminal justice pre-trial and correctional facilities**

*The Economic and Social Council,*

*Alarmed* at the continuing spread of the HIV/AIDS epidemic in pre-trial and correctional facilities,<sup>1</sup>

*Recalling* its resolution 1997/36 of 21 July 1997 on international cooperation for the improvement of prison conditions and its resolution 1999/27 of 28 July 1999 on penal reform,

*Reaffirming* its resolution 2002/15 of 24 July 2002 on United Nations standards and norms in crime prevention and criminal justice, in section II of which it invited Member States to undertake the necessary efforts to solve the problem of prison overcrowding,

*Recalling* General Assembly resolution 56/261 of 31 January 2001 on the plans of action for the implementation of the Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century,<sup>2</sup> in particular the plans of action on crime prevention, on prison overcrowding and alternatives to incarceration, on juvenile justice and on the special needs of women in the criminal justice system,

*Recalling also* the objectives related to HIV/AIDS contained in the United Nations Millennium Declaration,<sup>3</sup>

*Welcoming* the Declaration of Commitment on HIV/AIDS<sup>4</sup> adopted by the General Assembly at its twenty-sixth special session, on HIV/AIDS, in June 2001,

*Acknowledging* that HIV/AIDS is primarily, but not exclusively, a public health issue governed by the World Health Organization and coordinated by the Joint United Nations Programme on HIV/AIDS, combining the efforts of the nine co-sponsoring agencies and programmes within the United Nations system, which formulate and coordinate policy responses to this global problem,

*Taking into account* that, within that framework, specific vulnerable groups, such as prisoners, merit particular attention and, as such, the United Nations Office on Drugs and Crime has an important role within the framework of its mandate in questions of standards and norms related to pre-trial and correctional facilities,

*Recalling* Commission on Narcotic Drugs resolutions 45/1<sup>5</sup> and 46/2<sup>6</sup> on strengthening strategies regarding the prevention of HIV/AIDS

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<sup>1</sup> The term “pre-trial and correctional facilities” as used in the present text refers to the criminal justice aspect indicated in the title of the resolution.

<sup>2</sup> General Assembly resolution 55/59, annex.

<sup>3</sup> See General Assembly resolution 55/2.

<sup>4</sup> General Assembly resolution S-26/2, annex.

<sup>5</sup> *Official Records of the Economic and Social Council, 2002, Supplement No. 8 (E/2002/28)*, chap. I, sect. C.

<sup>6</sup> *Official Records of the Economic and Social Council, 2003, Supplement No. 8*

in the context of drug abuse, as well as its resolution 47/2 on prevention of HIV/AIDS among drug users,<sup>7</sup>

*Recalling also* Commission on Human Rights resolution 2003/47<sup>8</sup> on the protection of human rights in the context of HIV/AIDS, in which the Commission urged Member States to ensure that their prison policies and practices respect human rights in the context of HIV/AIDS, prohibit HIV/AIDS-related discrimination and promote effective programmes for the prevention of HIV/AIDS in pre-trial and correctional facilities,

*Recalling further* the concerns of the Commission on Human Rights, reflected in its resolution 2004/26<sup>9</sup> on access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria,

*Mindful* that the physical and social conditions associated with imprisonment may facilitate the spread of HIV/AIDS in pre-trial and correctional facilities, and thus in society,

*Deeply concerned* at the potential role of pre-trial and correctional facilities as multipliers or “incubators” of the HIV/AIDS epidemic, as the findings of the report of the United Nations Development Programme entitled *Reversing the Epidemic: Facts and Policy Options*<sup>10</sup> suggest,

*Underlining* the importance of the Standard Minimum Rules for the Treatment of Prisoners<sup>11</sup> as guidelines for operating secure, safe and orderly pre-trial and correctional facilities, providing meaningful activities for prisoners, monitoring general prison conditions, ensuring an effective complaint system and providing for basic prisoner rights, including the right to adequate health care,

1. *Recognizes* that measures are needed to address overcrowding and to curb violence in pre-trial and correctional facilities;

2. *Invites* Member States to consider, where appropriate and in accordance with national legislation, the use of alternatives to imprisonment, as well as early release for prisoners with advanced AIDS;

3. *Recognizes* that effective HIV/AIDS prevention, care and treatment strategies require behavioural changes and increased availability of and non-discriminatory access to HIV/AIDS prevention, care and treatment, as well as increased research and development;

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(E/2003/28/Rev.1), chap. I, sect. C.

<sup>7</sup> *Official Records of the Economic and Social Council, 2004, Supplement No. 8 and corrigendum* (E/2004/28 and Corr.1), chap. I, sect. D.

<sup>8</sup> *Official Records of the Economic and Social Council, 2003, Supplement No. 3* (E/2003/23/Part I), Chap. II, sect. A.

<sup>9</sup> *Official Records of the Economic and Social Council, 2004, Supplement No. 4* (E/2004/23/Part I and Corr.1), chap. II, sect. A.

<sup>10</sup> United Nations Development Programme, *Reversing the Epidemic: Facts and Policy Options* (Bratislava, 2004).

<sup>11</sup> *First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva, 22 August-3 September 1955: report prepared by the Secretariat* (United Nations publication, Sales No. 1956.IV.4), annex I.A.

4. *Also recognizes* that prisoners have the right to adequate health care and that access to qualified medical personnel should be ensured;

5. *Suggests* that appropriate training should be given to managers and warders of pre-trial and correctional facilities to enable them to deal better with HIV/AIDS;

6. *Requests* the United Nations Office on Drugs and Crime, subject to the availability of extrabudgetary resources, to work in coordination with the United Nations Joint Programme on HIV/AIDS, the World Health Organization and other relevant United Nations entities to collect information and analyse the situation of HIV/AIDS in pre-trial and correctional facilities, with a view to providing Governments with programmatic and policy guidance, within its mandate in relation to standards and norms concerning such facilities, building on lessons learned and taking into account existing guidelines and recommendations from previous and ongoing activities in various regions of the world;

7. *Encourages* the United Nations Office on Drugs and Crime, within its mandate in relation to standards and norms concerning pre-trial and correctional facilities, to offer advice and expertise to the United Nations Joint Programme on HIV/AIDS, the World Health Organization and other relevant United Nations entities in order to ensure that the particular problems of HIV/AIDS in such facilities are adequately addressed;

8. *Invites* Member States to make voluntary contributions to the United Nations Crime Prevention and Criminal Justice Fund, in direct support of activities and projects of the United Nations Office on Drugs and Crime related to prevention of HIV/AIDS in pre-trial and correctional facilities;

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

*47th plenary meeting  
21 July 2004*