

**and the Treatment of Offenders**

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**Statement**

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**Germany**

Mr President,

Let me begin by congratulating you very warmly on assuming the chairmanship of this important part of the Congress.

I should like to associate myself fully with the statement made by the Portuguese Presidency of the European Union. Let me add a few additional remarks:

At the beginning of the new millennium we find that the manifestations and causes of crime and the question of how the state and society at large are reacting to them are among the topics most frequently addressed in public debate. Unfortunately, we also find that crime and violence are affecting millions of people in our countries and, moreover, - cause great financial loss to the economy. Hence it is quite right that these issues should be at the centre of public attention.

Ranging from shop-lifting and burglary to spectacular cases of violence and organized crime, crime constitutes a central problem in society today. It is true to say that developments in Germany over the last few years have been marked by a slight decline in registered crime and by an increase in solution rates. But in view of the high total figures and alarming crimes of violence we have to face the question today - more than ever before - as to whether those of us who are taking an active part in shaping policy in this field have really done everything we can to meet this challenge?

We might also even be asked whether we have not capitulated in the face of this challenge if we are unable to check this development.

Mr. President, allow me to make the following observations:

I.

The topics being addressed at this Congress correctly take up the central challenge facing society in the 21st century. One crucial question is how we can jointly respond to organized transnational crime. Another important question is how - in our endeavours - do we focus more attention on the victim with his individual suffering and his right to protection against crime.

The answer is simply that „prevention is better than cure“. In the first place, we have to eliminate the causes of crime and recognise the importance of preventive measures in all areas of crime. Without doubt prevention still accords the best protection against crime.

Above all, crime must be combated where it occurs. This means that crime must be combated directly on the spot. Each individual city and town carries a high degree of responsibility in the domain of crime prevention. Safety on the streets and in the neighbourhoods, the inclusion of young people in public responsibilities, the development of mechanisms for conflict resolution and social responsibility are all fields which I just want to mention as examples here.

Today in Germany there are already more than 1,600 agencies identifying specific problems at close quarters on the spot and working out solutions. It is here that crime prevention gets to the roots of crime. People's commitment to their city or town, to their neighbourhood is something we need and which calls for our support.

In a large number of countries experience shows that this work in local communities can be given effective support by a national forum convincing the general public of the benefits conferred by prevention, promoting prevention projects and providing impulses for legislation. This kind of forum can, in particular, elucidate the following:

- Crime prevention presents a challenge to society as a whole and is no longer just a matter for the police and the courts.
- All sectors of society have to work on this task but, above all, the citizens themselves must also be involved.

-The state has to create the general conditions to make it actually possible to achieve this goal.

Hence in Germany we shall be following the example of other countries this year by establishing a "**German Forum for Crime Prevention**" so as to make prevention of crime a key topic at national level. Where the limits of crime suppression have been reached, it is here that we find opportunities for development. These are the opportunities we want to exploit.

In spite of all efforts made, the state cannot succeed in completely eradicating acts of violence. In a second step, it will therefore have to gear its legislation more closely to **victims' interests**.

The suffering of victims should not be intensified in **court proceedings**. Examination in court or police questioning are a great strain on almost all witnesses. Particularly child witnesses and the victims of sexual offences must be treated as considerately as possible. Here the new technical possibilities such as videotaping examinations - can help to avoid further confrontation with the criminal offender. Here, too, I also see the chance of avoiding long and expensive journeys to court sittings for witnesses living far away from where the court is situated.

In addition to meting out punishment for commission of criminal offences, **reparation and compensation** for victims must also be pursued as important goals in criminal proceedings. Improving the protection of victims against criminal offences has become ever more important in recent years, both nationally and internationally. It is the mirror image and necessary supplementation of all endeavours in the fight against crime.

## II.

Mr. President, let me now turn to the other central problem - transnational organized crime.

When the representatives of the international community assembled at the „World Ministerial Conference on Organized Transnational Crime" in Naples in November 1994 following an Italian invitation - hardly anybody thought that just six years later the work being done on a UN Convention to combat transnationally organized crime and on three additional protocols would be as far advanced as it is today. In this connection our thanks must go to the Government of Poland for submitting a comprehensive Draft Convention at

the time with an invitation for initial consultations, as well as to the Government of Argentina for hosting further deliberations on this first Draft.

As you know, since the very beginning, Germany has been fully committed and has put forward proposals for the drafting of the instruments to combat transnational organized crime. We shall continue to do everything we can to enable this work to be completed on time. Nevertheless, a projected date must not be allowed to become an end in itself. Priority lies with the contents of the agreements, from which we hope to see a sustained contribution to the fight against transnational organized crime.

Let me outline a few benchmarks that appear important from the German point of view:

1. The **mandate of the UN - General Assembly** is to draw up an international instrument to combat transnational organized crime. So our goal has been clearly marked out, but the mandate does not tell us how we are to achieve this goal. Where, for instance, modes of conduct have been identified as being punishable in connection with the suppression of organized crime, the relevant obligations to penalise such conduct must apply generally in the Draft Convention. We therefore think that restriction to cases where the offence concerned has been committed by criminal associations is mistaken.
2. The Convention must enable **far-reaching co-operation** between states **in the criminal prosecution** of transnational organized crime. This type of crime derives often enough from nationally organized crime. Hence the Convention must also ensure cross-border co-operation if a serious criminal offence has indeed been committed by a criminal association exclusively in the national domain but with transnational references. This will, for instance, be the case where the offender has fled abroad or where the loot or evidence has been taken abroad. In such constellations the Convention must ensure both extradition of the law-breaker, and the securing and confiscation of the loot or recovery of the evidence by the state where the crime was committed. The fight against transnational organized crime will fail if we do not even support each other in the suppression of nationally organized crime.
3. I think it is important for a worldwide Convention to take account of the special attributes of the different legal systems and legal traditions. This should not, however, be misunderstood to mean that we are only turning down proposals because our law, as currently in force, does not make such provision. Every international instrument regularly requires amendment or adjustment of our national law.

But consensus can be achieved only to the extent that the proposals concerned do not run counter to the fundamental principles of the relevant national legal system.

4. In view of the challenges presented by transnational organized crime we quickly need the instruments required to suppress it. We no longer have the time to develop solutions to every conceivable nuance. Not everything that would be desirable is feasible in the short run. But we must on no account dispense with what is essential.

In this connection I am particularly thinking of the suppression of **money laundering**. Presumably, there is international consensus to the effect that suppression of transnational organized crime is doomed to failure if there are no effective measures for combating money laundering. But suppression of money laundering cannot, and must not, amount only to mere penalisation of money laundering. What we need is a number of different accompanying measures. Here we should not shy away from going back to recognized approaches even if they were developed outside the United Nations context and not all states were involved in their elaboration. Here mention must be made of the 40 recommendations on money laundering of the Financial Action Task Force.

5. The present version of the Draft Convention contains a number of proposals going beyond the typical content of United Nations criminal law instruments. By way of example, this particularly applies to the recommendations on suppression of money laundering to which I have referred. Here, inter alia, the requisite inclusion of the financial system with customer identification, with recording duties and with communication of suspicious transactions - to mention just a few of these recommendations may seem to present an insuperable obstacle to some states. I think this fear is unfounded. Such necessary but complex provisions are not inevitably required to have been fully implemented at the national level on the day the Convention is ratified. Indeed this would probably overstretch the financial, personnel and organisational resources of a number of states, It also costs a certain amount of effort on Germany's part to implement the recommendations. But the problem can be solved. The Convention could certainly make provision to the effect that the obligation to develop the necessary national regulatory and monitoring system, based on the 40 recommendations on money laundering, is to be implemented gradually. The process of development and implementation would be governed by what is possible in national terms and would naturally have to take place in compliance with the fundamental principles of the relevant national legal system.

Swift adoption of the Convention and its additional protocols, and the willingness of the international community of states to ratify them, presuppose a high degree of acceptance of

the solutions proposed. In terms of its content, the so-called „mother convention" in **particular does not present any** cause - on the merits - for profound differences of a regional kind. I am confident that existing differences of opinion could be resolved. But, as I see it, this would presuppose existing problems being openly discussed. For my part, I can assure you that Germany will, at all times, be available for informal discussions to find agreed solutions.

III.

As one of the last speakers this afternoon let me conclude with the following remarks:

Following a number of successful Congresses, the Tenth Congress, too - and we can already say this has mastered its difficult task of developing a common strategy on how to suppress modern forms of crime. All the aspects I was only able to refer to briefly here were dealt with during the discussions at the plenary session and in the individual workshops. The Congress has again set yard sticks for the international cooperation in the field of crime prevention and has again shown the following:

Crime prevention serves the cause of internal peace in society. It leads to greater security and promotes the quality of life.

The Declaration of this Congress addresses various avenues of action available to us, both as regards their technical and administrative aspects and as regards their legislative aspects. In this form it constitutes a suitable basis for an international overall strategy for fighting against organized crime and for strengthening the general prevention of crime.

Hence this Congress has shown that we are by no means capitulating in the face of the challenges posed by the 21st century. But further great efforts have to be made to achieve these ambitious goals. I hope and trust that we will succeed!

Thank you, Mr. President.