

Address delivered by
the Deputy Prime Minister and Minister for Justice and Home Affairs

TONTO BORG

MALTA

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Address by the Deputy Prime Minister and Minister for Justice and Home Affairs of Malta TONIO BORG at the Eleventh (11th) United Nations Congress on Crime Prevention and Criminal Justice

Theme : Synergies and Responses: strategic alliances in crime prevention and criminal justice

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Mr Chairman, Your Excellencies,

Distinguished guests and participants,

It is with great pleasure that I attend this Congress for the third time and may I congratulate the Thai Government for the excellent hospitality extended to all delegates their arrival here and for the perfect organization of this Congress.

As mentioned in the Draft Declaration, major inter-governmental forums held by the United Nations have influenced national policies and promoted international co-operation in this field of crime prevention, including the drafting and creation of international legal instruments in the fight against crime all over the globe.

A prompt response to international crime is needed in view of the increasingly transnational nature of crime itself; not only is it becoming more professional and organized, but more international, thanks in no mean measure to the striking developments in science and means of communication.

Five years ago we all assembled in Palermo for the signing of the Convention against Organized Crime and Its Protocols. For the first time, the Convention did not cover any specific crime, but all crimes which stem from an organized criminal structure, providing also a means for extradition of cross border criminals where no extradition treaty exists between two signatory states to the Convention.

It is not therefore by chance that the draft Declaration appeals for further co-operation to improve international co-operation in the fight against crime and terrorism on the multilateral, regional and bilateral level, specifically **mentioning the area of extradition and mutual legal assistance.**

In reality there is certainly room for improvement in the co-operation between states, particularly as regards mutual legal assistance, exchange of intelligence and extradition of offenders from one country to another.

In spite of several regional instruments relating to extradition, such as the European Convention on Extradition, and as regards the EU members, the European arrest warrant, a form of shortened extradition procedure, no global instrument relating to extradition has yet been drafted ; this, by any standards would constitute a gargantuan task even though UN institutions have already drafted a model extradition treaty for use by member states; but provided it is hedged with suitable safeguards to cater for the lack of harmonization between legal systems, customs and traditions, such global international legal instrument is by no means impossible to create . It could form the basis for extradition between UN member states on all crimes of a serious nature. Till now such efforts have been successfully concluded as regards particular crimes and as I have already stated, particular categories. This latter effort has now widened the scope of UN extradition instruments which could, therefore, pave the way for a global treaty on all types of crime of a serious nature.

Since the last Congress in Vienna, the world has witnessed concerted far-reaching terrorist attacks, which have had a particular characteristic; they were modern attacks, exploiting modern means of communication ; and they were not contained in any particular part of the globe; but have had a common hand and design behind them.

The UN instruments against terrorism have removed the legal and political obstacles relating to the fight against terrorism, treating all terrorist offences as defined in the Conventions as serious crimes irrespective of their political tinge or color. They have also strengthened the feeling that an attack on one member state is an affront to all the international community.

The Draft Declaration makes a particular appeal for states to sign the UN Convention against Corruption. Malta has signed both the Civil and The Criminal Conventions on Corruption launched by the Council of Europe and will in the next few weeks sign the UN Convention as well.

Ever since Malta joined the European Union it has strengthened its capacity legal and administrative, to fight organized crime on a regional and global

level. The introduction of the European Arrest Warrant, the signing of all UN Conventions against Terrorism, the adoption of the European Framework Decision to Combat Terrorism of 2002, the setting up of Europol and Eurojust have strengthened beyond all previous attempts the European idea of an area of freedom and security. The European Arrest Warrant has simplified extradition in the European region and made it practically impossible for fugitives of justice to wriggle through legal loopholes and avoid apprehension. This was possible, as stated at this Congress by the EU Presidency, because of the mutual trust of member states in each other's criminal justice system.

But freedom and security do not depend only on regional co-operation. The European Union is not an inward-looking institution in matters relating to global crime. It strives to support international and multilateral efforts to combat crime everywhere.

Since the last Congress in Vienna in 2000, Malta has made great strides forward in strengthening the fight against crime around the globe through far reaching amendments to our Criminal Code mostly necessitated by our adhesion to the European Union. Malta has ratified the UN Convention against Transnational Organized Crime in 2003, the European Convention on Terrorism, and all the UN conventions on terrorism; the amendments to our Criminal Code in 2002 have introduced for the first time the crime of conspiracy, that of belonging to an organized criminal group, and the extension of special powers of investigation, freezing and forfeiture of assets for all serious crime; besides terrorism has been inserted in the Code as a specific crime and it is proposed to delete the predicate list in money laundering offences so that all crime punishable with imprisonment shall be considered to be a predicate offence for money laundering purposes.

In the sphere of extradition we have introduced the *aut dedere aut iudicare* principle whereby if for some reason or another a person is not extradited on the basis of a political decision e.g, the death penalty, then the Maltese Courts would have jurisdiction to try such person themselves.

Corruption offences have been created to align our legislation with the Council of Europe Conventions on Corruption including the introduction of the crime of trading in influence and the extension of the crime of bribery to cover the private sector. In so doing the task has become easier to ratify the UN Convention on Corruption

In the realm of criminal justice the victims of crime have been granted the right to be present all throughout criminal proceedings and to be assisted by a lawyer at all stages. Besides a new Probation Act in the year 2000 while modernizing provisions relating to offenders has introduced the possibility of applying community orders against the offender and full compensation to the victims of crime.

In 2003 a new 15 million dollar correctional facility was opened strengthening the possibility of better classification amongst prisoners, particularly young offenders; a new Police Act also formally listed the rights of the criminal suspect during police detention and subjected to judicial review all the stages of one's detention. A Police Board was also set up in 2003 to examine complaints against police behavior.

This year Government has published a **White Paper on Criminal and Civil Justice** proposing reforms in all sectors and strengthening the prosecuting authorities hands in the fight against crime.

Mr Chairman

There is no doubt in my mind that good can come out of evil sometimes. The *furore* which followed the heinous terrorist attacks all over the globe has brought us ministers of justice or the interior from all member states closer together; this co-operation is reflected in the number of international instruments which have been proposed or approved and increased co-operation between member states who feel that survival of the rule of law and the democratic process are at stake unless action is taken.

This need to assemble, discuss and act is god-sent; national frontiers are being dismantled in the interests of collective efforts against professional criminal action. As long as this struggle between good and evil is kept high on our agenda, we the member states of the UN shall overcome.