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25th CONFERENCE OF EUROPEAN MINISTERS OF JUSTICE

Sofia (9-10 October 2003)

- **INTERNATIONAL CO-OPERATION IN THE
FIGHT AGAINST INTERNATIONAL
TERRORISM AND IMPLEMENTATION OF
THE RELEVANT INSTRUMENTS OF THE
COUNCIL OF EUROPE**

- **THE RESPONSE OF THE JUSTICE SYSTEM
- CIVIL AND CRIMINAL - TO TERRORISM**

Report presented by the Minister of Justice of

NORWAY

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On the Response of the Justice System – Civil and Criminal – to Terrorism

Several tragic terrorist attacks in the last couple of years have increased the need for more effective measures in the fight against terrorism. Great and speedy efforts have been made in order to combat terrorist acts and to counter all those who commit, organize or assist them. The excellent report of my highly esteemed colleague, the Minister of Justice of Bulgaria explains the efforts in more detail.

Quite rightly, the report also deals with the protection of human rights and the suppression of terrorism. I would like to elaborate somewhat on that issue. The response of the justice system to terrorism cannot be discussed properly without reflections upon how the continued fight against terrorism can go hand in hand with the protection of fundamental values, namely human rights.

The Council of Europe has for more than five decades been a vital force in our common struggle to secure human rights. At the same time, the Council of Europe has made invaluable contributions to the fight against terrorism.

But even in the light of this, it is impressive that the Committee of Ministers, only ten months after the 2001 September 11th attacks, succeeded in adopting a series of guidelines on human rights and the fight against terrorism. These guidelines will be taken into consideration in future anti-terrorism legislation. And they will help States strike the right note in their fight, and in our common fight, against terrorism.

In the spirit of these guidelines, I think we should all make an effort to reflect on how our readiness to fight terrorism can best be combined with our desire to do so without compromising basic human rights. In the Nordic countries, the ministers of justice, in the summer of 2002, decided to set up a working group composed of national experts from all five Nordic countries. The group is to prepare a report on how basic human rights can best be secured in the future response of our justice systems to terrorism.

The questions that the group has to deal with, may in concert with the other written contributions serve as a purposeful point of departure for the forthcoming debate. I would therefore like to give a short overview of four different perspectives of the relationship between securing human rights and fighting terrorism.

1. The first perspective is the question of the scope and content of all States' obligation to fight terrorism in order to protect citizens against human rights violations. Terrorism, which deprives innocent victims of their life, can rightly be seen as a threat to basic human rights – the right to life which states have a duty to defend. This must be the legal starting point for our fight against terrorism.

2. The second perspective is the potential for preventing terrorism by securing human rights. There is a need for effective law-enforcement, but there is also a need to enforce human rights in order to undermine the popular support for the terrorists. Terrorism prospers under suppression. Poor social, political, economic and other living conditions provide a fertile ground for fanatic terrorist groups. Justice and human rights, however, pull the rug under their feet. I can associate myself fully with the remark made by the President of the Parliamentary Assembly. Mr. Peter Schieder, that “terrorists are afraid of human rights”.

3. The third perspective is the careful scrutiny of the limits that human rights' obligations impose on States in their measures against terrorism. A war against terrorism, which neglects human rights, will perpetuate the threat. Terrorist groups always have, and always will, exploit human rights abuse and violations of justice as arguments to further their case. As my esteemed colleague from Bulgaria has pointed out in the report, those accused of having committed acts of terrorism must be guaranteed the right to a fair trial as well as the other rights enshrined in the Convention for the Protection of Human Rights and Fundamental Freedoms.

4. The fourth perspective is the question of the extent to which terrorist acts or, in some instances, terror threats may provide sufficient grounds for derogating from States' human rights obligations. However, when asking this question, we must not forget that there are some fundamental rights from which no terrorist acts, no matter the graveness of them, can permit derogations. Here, I will limit myself to pointing to the prohibition of torture and inhuman or degrading treatment.

I hope that the forthcoming debate can contribute further to a common European basis for the continued fight against terrorism, without sacrificing fundamental human rights. It is not an easy task, but even more so a vital one. If we too readily and too often trade our liberty in for security, we risk losing both.

