



Besuch FBM bei der ER-Justizministerkonferenz



vom 24. bis 26. November 2010 in Istanbul

Presentation für FBM

“Prisons in today’s Europe“

Officers of the penal system have no easy job. They have to take care of the toughest members of society striving at least to protect society from them, but better still to enable their resocialization. In the public eye it is the inevitable failures of the system that are the most conspicuous. The general public has rather limited sympathy for investments on behalf of fringe groups of prisoners. There is immediate suspicion that "those in prison" are already better off than the law-abiding citizen who has to pay his taxes.

In times of budget restrictions the special challenge for politicians consists in continuing to provide maximum quality to the penal system.

Discrepancies existing between national law and the European Convention of Human Rights are most clearly evident within the penal system. For practical reasons, because of the traditional way of treating offenders and due to economic restraints there is a tendency for legislators to push the scope of discretion afforded by human rights provisions in restricting the rights, in particular of prison inmates, to the very limit.

But recent decisions by the European Court of Human Rights have been giving some dynamic momentum to human rights issues in the development of penal systems, and have been instrumental in initiating reforms.

The long-standing efforts also undertaken by Austria to move the focus away from



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merely securing and detaining prisoners to caring for them, and to have this task performed not only by specialists like psychologists or therapeutic experts, but also include prison officers, have suffered some setbacks in recent years.

Moreover, prison inmates suffer from drug addiction problems, which cannot be controlled effectively, and from ever growing basic education and training deficits. As a result of efforts to apply measures avoiding outright imprisonment, the most difficult groups in every respect are being left behind in prisons.

A particular challenge for Austria is the application of precautionary measures to the approximately 850 mentally disordered offenders, who in Austria, other than in many other countries, are maintained within the penal system, will require a high degree of supervision and are incurring high costs accordingly. Also this extremely difficult group of prisoners requiring a high degree of supervision has grown disproportionately in number, increasing 250% since 1980.

In spite of a very difficult set of conditions for the penal system, there is still room for reforms and improvements. I am happy to report that – following international trends – as of 1st of September 2010 an electronically monitored home detention curfew scheme was introduced also in Austria as an alternative for remand detentions or penal detentions. This is not a form of punishment, but rather a form of detention.

Electronically monitored home detention curfew as a substitute for serving a sentence in a penal institution requires the detainee to file an application and is predicated on a (residual) detention period not exceeding one year and the person concerned having suitable accommodation, employment, income and social insurance. Moreover, declarations of consent by fellow home occupants must be provided and an examination of housing conditions, social environment and any risk factors must show that the freedoms associated with the home detention curfew scheme are not likely to be



abused.

The presence of the person concerned in his/her home will be monitored by electronic means. The detainee may leave home in a planned way to go to work, buy necessary food and household articles or receive medical treatment.

Finally I think the idea of my colleague from Luxembourg concerning a European electronically monitored home detention curfew system seems to be worth further discussions.

