



SC (11) SI 24 E
Original: ITALIAN

SUPPLEMENTARY ITEM

DRAFT RESOLUTION

ON

“COMBATING CRIMES CAUSING SERIOUS SOCIAL ALARM”

**Principal Sponsor
Mr. Claudio D’Amico
Italy**

BELGRADE, 6 JULY TO 10 JULY 2011

DRAFT RESOLUTION

Combating Crimes Causing Serious Social Alarm

Principal Sponsor: Mr. Claudio D'Amico (Italy)

1. Noting that in 1764 in his work *On Crimes and Punishments* the Italian jurist Cesare Beccaria considered the death penalty an ineffective means of crime prevention and strenuously proposed its abolition. His work had a crucial influence on criminal law reform movements, even outside Italy, after the 19th century in a number of Western European countries and little by little in many others, demanding the abolition of capital punishment and replacing it with other forms of punishment, including imprisonment,
2. Noting also that in the Council of Europe Member States, the death penalty has been prohibited even in peacetime under Protocol no. 6, which came into force on 1 March, 1985, completing the European Convention on Human Rights, and that it was precisely thanks to this protocol that Europe totally reversed its position from the situation of tolerating legal death to banning it. Or better still, Europe made the abolition of the death penalty one of its cardinal values under Protocol no. 13, which came into force in July 2003, abolishing the death penalty under all circumstances, even for acts committed in wartime or with the imminent threat of war,
3. Considering, however, that even without the death penalty, the OSCE participating States guarantee the peaceful coexistence of their citizens in a completely secure environment by implementing adequate instruments to combat crimes which cause the greatest social alarm,
4. Emphasizing the importance to the OSCE Member States of ensuring effective punishment and the certainty of punishment for the most heinous crimes which give rise to serious alarm in public opinion, in particular sex crimes against children and murder, also by making it mandatory to remand suspects in custody while awaiting a fair trial when serious *prima facie* evidence exists of their guilt,
5. Considering that some OSCE Member States use alternative measures to imprisonment, such as house arrest or other less restrictive measures, even for particularly serious crimes, and give wide margins of discretion to the courts to decide on which restrictive measures to apply to individual cases,
6. Recognizing that in a judgment issued on 6 November 2003 the European Court of Human Rights ruled that for crimes causing particularly serious social alarm, such as Mafia-related crimes, preventive detention in prison is perfectly justifiable as the sole means of meeting the need for security while awaiting trial,
7. Considering that the European Court of Human Rights itself has ruled, *mutatis mutandis*, in the Messina v. Italy (no. 2) case no. 25498 of 1994 in relation to the application of article 8 of the Convention, that the state may also impose restrictions on personal freedom, and hence make preventive detention mandatory, when certain

crimes might "undermine" "public order, security and the public interest", so that it can be deemed "the only form of crime prevention",

8. Considering that there is nothing to prevent the OSCE Member States from imposing preventive detention in prison in the case of sex crimes against children and murder, as the only measure adopted, when there is serious evidence of guilt, to safeguard law and order, security and the public interest, and as a preventive measure when there is the danger of repeat offences;

The OSCE Parliamentary Assembly:

9. Invites the participating States to cooperate in order to implement positive actions to introduce rules into their judicial systems making preventive detention the sole preventive measure adopted against persons awaiting trial charged with sex crimes against children and with murder, where serious evidence exists of their guilt, while providing adequate guarantees to the accused, thus excluding any other alternatives to preventive detention;
10. Urges the OSCE Council of Ministers take all appropriate measures until the cooperation referred to in the previous clause is established, to effectively prevent the commission of the crimes which cause serious social alarm indicated above.

PROPOSED AMENDMENT to the DRAFT RESOLUTION

on

“COMBATING CRIMES CAUSING SERIOUS SOCIAL ALARM”

[Set out text of Amendment here:]

Principal Sponsor:

Mr/Mrs	Family Name in Capital Letters	Country	Signature

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