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**Principles of the police work in a
European area of freedom, security and justice**

(Speech for the Scientific conference in Budapest on 1 December 2004)

(For guidance: only the spoken word has sole validity)

Dear Mr Chairman,

Dear colleagues, my dear Ladies and Gentlemen,

Thank you for inviting me to speak to you once again here today. Unfortunately, I still have not learnt to speak Hungarian in the past year and must therefore hold my speech in English again.

One year ago already I had the honour here at the conference in Budapest to present several of the major issues of the work of Europol. You can look up my remarks in the printed book about the conference. At that time I had already included the special difficulties for police work in considering the daily balance between the personal freedom of the citizens on the one hand and the safety of all citizens in a union of all European states on the other hand.

I believe I do not need to explain to you as citizens of Hungary why we all need the freedom and why we all cherish this so much – but what shall we do with safety? And how do you feel personally as Hungarian citizens today and as police officers in a European Union?

I do not know, of course, how the work and above all how the legal bases for the Hungarian police force have changed in recent years. This morning I heard from previous speakers some interesting facts about your police act and the border police act. But let me guess about your feelings:

Is it not like the merry-go-round with the chairs hanging on chains at the fair on which we all liked to ride so much when we were children? I am sure you remember:

First it turns very slowly, you can still see exactly what is happening around you and who is standing in front of the carousel – but suddenly the carousel turns faster and faster.....

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people and everything around you become more and more blurred, you are slowly getting dizzy in the head, your own feet with which you could still walk on the carousel floor at the beginning are lifted in the air, flying with you higher and higher. You cannot get off anymore either - your full concentration is now just focused on holding onto the seat and with the vague hope that the carousel frame will stay where it is and sometime the carousel will slow down and you will have your feet firmly on the ground again. And then – very carefully – you will stand up from the seat, a bit wobbly on your feet and move towards your good friends, who are standing down there and waiting. What can we learn from this: The fast ride to freedom needs fixed points and good friends, with whom you can recover again.

Fixed points with the police work in the European Union, do they exist and what do they look like?

Yes, these are the common basic beliefs of a democratic form of state, the self-determined and self-confident freedom of the citizens and their protection and their safety (in this order) in a constitutional state. So that the constitutional state can guarantee protection and safety it receives the sole monopoly on control from its people. However, we as European citizens have the task to either directly or through our parliaments determine how narrow or to what extent the means of state control are to be. Not the state tells us which rights we have, but we the citizens give the state the rights, that it needs. Details of the further control over observing these standards are then the responsibility of the independent courts.

We now find many of these basic principles and a charter of basic rights in the new constitution for Europe.

However, what do we do with these high ideals in our daily work. The difficulties, ladies and gentlemen, dear colleagues, of a police officer in the united Europe exist when performing his daily tasks in the fact that on the one hand he has to apply the right of its home country and at the same time has to have his sights set on the higher European principles. In an ideal case both should correspond but when will this be the case? If I now speak of European principles I mean therefore in particular the European Human Rights Convention, but also the principles of the Council of Europe Convention for the Protection of Individuals No. 108 of 28 January 1981 and the Recommendation No. R(87)15 Council of Europe/Committee of Ministers regulating the use of personal data in the police sector. Not to forget the special regulations within the Europol and Schengen Convention.

I know from personal experience how difficult it is and how much time and effort it costs until one feels more or less safe in the new unusual legal fields – I was not always just a Data Protection Commissioner, but for many years myself worked and taught in a leading position in police authorities.

Unfortunately, we do not have a uniform definition of crime so far in the European Union nor uniform criminal procedural law. There are first rays of hope: Since recently there has been a binding arrest warrant in the European Union, but the trade with drugs is still treated differently in the Netherlands than in Great Britain and a fraud under German criminal law is often treated as a civil offence in France. Nevertheless, there are today already binding principles, which apply the same for Danish police officers as well as for Spanish or Hungarian officers:

- the duty to treat all citizens of the European members states equally,
- the ban on arbitrary interventions in rights of freedom and basic rights of the EU citizens without a clear legal base being stipulated beforehand,
- a ban on prosecution for political, religious or racist reasons,
- a ban on torture or the inhuman or humiliating treatment of the citizens.

Please allow me to just stop here for a moment and remind you that a trial which is causing a stir has been going on in Germany for a few days now against a leading police officer from Frankfurt am Main who is accused in a criminal court because he threatened the kidnapper of a child with serious pain if he did not immediately disclose the whereabouts of the child – was this right or better, does this correspond with our European principles?

Other common principles are

- a ban on exceeding the limit when asserting any state control (staying in proportion),
- a requirement for transparent state action – this includes as a rule the open appearance of the police towards the citizens, documentation duties for judicial control and rights for citizens to be informed about the accusations made against them,

- the freedom to meet and form associations,
- the right to be brought before an independent judge within a short space of time and
- very new in the European constitution -
- the protection of personal data of any one person. This includes the observance of the principle for requirements in collecting and processing data, limits to their transmission, above all to states outside of the European Union, the obligation to the legal basis with the purpose for the data, the duty to correct false data and the time limit of their storage in state documents and files. And last not least there is a need for an independent data protection control by a supervisor.

Some who observes these clear points in his daily work, moves quickly on firm, safe ground again. And you also need the safe ground here in Hungary, as you now monitor and safeguard a part of the borders of this European Union. And there is no lack of new serious problems every day. One thing we all know: the constant emphasis of the threat through terrorism. But so far it has not been possible to reach an agreement in Europe on legal policies, who is actually a terrorist. However, the EU has actually stipulated in a common point of view in 2002 what terrorist acts are.

Ladies and gentlemen, dear colleagues, I spoke about several fixed points of the joint European police work and listed for you the maybe most important in short. But in my small example with the carousel I also mentioned the friends, who are able to catch you again and stabilise you after the first wild trip to freedom. We as visitors from the older European member states are pleased to offer our advice and our help, and we feel obliged to take all of your questions seriously and in particular your criticism of our principles. Make use of this, whenever you can.

Maybe I myself can also give you some advice along the way:

Never believe any politicians who want to tell you that there are simple means today to defend the threats for the citizens and the state:

One would just have to restrict the freedom of the citizens a little bit for this and reduce their rights for that and use the technical possibilities available on the market to an optimum extent – then you would soon have the situation under control again. Unfortunately, it is not

quite so simple. And nevertheless the politicians in many European member states are trying – think for example about the speech of the British Prime Minister, Tony Blair, in his declaration to the government relating to security policies, which he had read out by the Queen just a few days ago.

A further fashionable term in modern security policies and described as a miracle weapon is the collection of the biometrical data of all European citizens.

Ladies and gentlemen those who tell you this are often the same people, who have been telling you for 15 years that you as a police officer just have to enter a lot of data of the citizens into the front of a computer and then the criminals would simply and quickly come out at the back on the printer on their own. We all know that this – to put it carefully – is pure nonsense. The bad example which we all know of the Americans and their new handling of air passenger data is not a good recommendation.

But we also know, today, 56 years after the publication of George Orwell's novel "1984" - and 20 years after 1984 -, that we as citizens do not wish to live in one or in many small European monitored states. We should also make this clear to our politicians then we can look ahead to the common European future.

What did the famous Hungarian writer Antal Szerb say in his most important novel which was published in 1937 "Utas és holdvilág" (journey to moonlight) in the last sentence:

"And as long as you live you do not know what can happen still."

Thank you for listening to me for so long.