



## **EU FUNDAMENTAL VALUES, IMMIGRATION AND INTEGRATION: A SHARED RESPONSIBILITY**

**Speech by H.E. Sandro Gozi, State Secretary for European Affairs,  
on the occasion of the high-level seminar on:  
'EU FUNDAMENTAL VALUES, IMMIGRATION AND INTEGRATION: A SHARED  
RESPONSIBILITY'  
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First of all, let me thank you Bert, Minister Koenders, for your warm welcome and for this precious opportunity to share our views and experience and for the chance to be here today to discuss what should be a priority on every European Member State's agenda: the EU's fundamental values.

And thank you also to Secretary General Jagland for the very inspiring contributions I heard in his speech.

The tragedy of Lampedusa shipwreck in 2013 has become the sad symbol of an escalating migration crisis in the Mediterranean region, which cannot leave Europeans emotionless and unresponsive.

The great and generous humanitarian efforts made by Italy to rescue thousands of migrants off the Libyan coast are well known – from the Mare Nostrum Italian initiative to the Frontex joint operation Triton. Indeed, Italy has always called for an European initiative of search and rescue at sea.

As it was stressed by H.E. the President of the Italian Republic, Sergio Mattarella, in his recent end-of-year speech to the nation, the current surge in migration stems from various global causes and will continue for a long time.

We cannot delude ourselves to immediately eradicate all the causes of migration flows (i.e. conflicts, poverty, climate changes, terrorism), but we can – and have to – deal with them all together.

To this end, we must ensure a full and adequate implementation of the Action plan on Europe and Africa approved at La Valletta on 11-12 November 2015.

And in doing so, we must govern migration fully respecting the rule of law, as founding principle at the basis of the constitutional values of all EU Member States and upon which the Union itself is founded (Art. 2 TEU).

For these reasons, our Presidency deemed it necessary to strongly commit itself to promote a sound debate in the Council and to achieve an agreement on the role that the Council itself should play in safeguarding the respect of the Rule of Law, reaffirming our joint commitment to this principle.

We achieved an important result and on December 2014: the Council adopted ambitious conclusions on respect for the rule of law, establishing a political dialogue among Member States to promote and safeguard the rule of law within the EU.

By adopting the conclusions, the Council recalled that the rule of law is one of the key values on which the EU is founded and a matter of common concern for Member States. The dialogue will help us to ensure that the rule of law and fundamental values will continue to be a commonly shared objective. And we know that the European Parliament greatly appreciated this new approach of the Council.

We must be very clear with all EU governments: calling upon each of us to respect rule of law is not a “foreign intrusion” in internal affairs. No: it is an essential part of EU membership and EU values.

We are very supportive of the choice made by the Netherlands Presidency to focus on rule of law within the EU and to organize a debate on rule of law, fundamental rights and refugees in May at the General Affairs Council.

I am very concerned. Human rights must return at the center of European\ international attention. Rule of law must be a priority within our Union. This is not the case today. Or at least, not enough.

During the Cold War, at the time of dictatorship in Latin America, during the enlargement negotiation with central and eastern European countries, it was different.

But it is essential now, also to fight against radical Islamism. The challenge of Islamic extremism today is also a challenge on fundamental values. Just think about the role of women, about homosexuality, or the right to abandon Islamic religion.

Why do not we put at the center of our political action the protection and promotion of fundamental rights?

My first answer is: fear. Fear for our safety: physical, economic and social security. As it has been said: we have shifted from ideologies to biopolitics. Insecurity and fear: in our cities, in our societies, in our debates. They are the causes of a growing egoism. An insensitive egoism: insensitive to ethics, to dignity, to the pietas of the other.

It was easy to support the human rights of those imprisoned in the Soviet Gulag, of Europeans beyond the iron curtain. It is more difficult to show solidarity with the victims of violation of human rights who land on our coasts.

It is a very difficult situation, on objective grounds. There are “smugglers of demagogy”, “political investors of new fears”, who are growing in consensus thanks to xenophobia and racism.

We must be very clear on one point: to deny human rights is to deny European identity. On the other hand, everybody in Europe must respect our constitutions and the European conventions and charters. Everything comes after that, also the Koran.

First of all, there is a big misunderstanding about how to manage migration while assuring security. We should avoid any equivalence between migrants and terrorists.

While States are entitled to regulate movement across their borders, they must do so in accordance with their obligations under the European acquis as well as international law, including international human rights law.

As emphasized in several international Fora and as stated by UN Global Migration Group, though States have legitimate interests in guaranteeing security while exercising immigration controls, such concerns cannot, and indeed, as a matter of international law do not, trump the obligations of the State to respect the internationally guaranteed rights of all persons, to protect those rights against abuses, and to fulfill the rights necessary for them to enjoy a life of dignity and security.

We firmly believe that a successful policy against terrorism cannot be achieved without the utmost

respect for the necessary individual guarantees. The protection of basic human rights always represents the standard for all the initiatives put in place.

Our right to security must go hand in hand with our security of fundamental rights.

We are facing an unprecedented threat to our security, and to overcome this challenge, I believe that now, more than ever, we need to show greater solidarity and increase our cooperation at the EU level. During the last year, we have hardly worked together to make Europe safer fostering our cooperation in law enforcement and intelligence. Much has already been done – important progress has been achieved – but we still need to do more. In order to have a safe Schengen area, an efficient and well-functioning control of its external borders is essential.

Above all, collective security requires solidarity, and I think we all agree on the need to cooperate more.

In this respect, I fully agree with Secretary General Thorbjørn Jagland stating, on the occasion of the last Human Rights Day, that “as soon as anyone sets foot on our continent they have the same basic human rights as everyone else in Europe, as guaranteed by the European Convention on Human Rights.

As the European Court of Human Rights in Strasbourg has clearly stated, the CoE member States have a legal responsibility to guarantee the basic human rights of refugees and migrants, to treat people as individuals and to assess their situation on a case-by-case basis.

In this context solidarity between Member States is not an option. It is simply an enforcement of the Lisbon Treaty. It is a shared responsibility. In this context, solidarity is an essential value and a legally binding principle

Solidarity is also essential to strengthen protection and to respect dignity of migrants-

About one million refugees and migrants have made the perilous journey across the Mediterranean into Europe in 2015. This movement constitutes one of the largest movements of displaced people through European borders since World War Two.

This is the largest movement of refugees and migrants Europe has seen in decades, and the only way to address it effectively is for European states to act together. The right to seek asylum is not only enshrined in international law, but protection of people forced to flee war and persecution is also one of the fundamental values of the European project.

As a matter of fact, the volume of refugee and migrant flows has reached unprecedented levels, which risk to seriously affect countries' capacity to cope with it.

As a consequence – as it has been also remarked by the CoE on several occasions – the “detention” of asylum seekers and irregular migrants in Member States has significantly increased in recent years. Whilst it is universally accepted that detention must be used only as a last resort, it is increasingly used as a needed first response.

Overcrowding in hot spot centers and duration of “detention” are big and tough challenges to face as well. And this is why we must proceed in parallel and at the same speed with relocation and returns.

The European Agenda on migration is a good starting point.

The EU-wide pilot response mechanism for relocating people in clear need of international protection is a key element of the overall EU response to the refugee emergency Europe is facing and to better manage asylum and migration systems.

Its effective implementation is essential to effectively support the processing of the large number of applications for international protection, preventing further processing backlogs.

In addition, it will provide important guidance for the revision of the Dublin system, including the establishment of a permanent solidarity instrument, which is essential towards facilitating a more equal sharing of responsibilities for asylum seekers and refugees amongst Member States.

There is a need for a new burden-sharing mechanisms which could envisage mutual recognition of positive decisions on refugee applications and introduction of a common status of European refugee. These efforts have to be complemented with other measures to regain control and trust in the European asylum and migration systems, including: legal pathways to Europe, addressing the root causes of refugee and migratory movements, and effective and humane return policies for people not in need of international protection in line with fundamental rights and the principle of non-refoulement.

In this framework, shared responsibility in managing an efficient and well-functioning control of external borders of the Schengen area is another element of the new common policy. We therefore look forward to the announced Regulation on the European Border and Coast Guard.

Schengen means freedom and European identity. To suspend Schengen does not improve in any way our security but it certainly worsens our daily lives. This is why we clearly say no to Mini-Schengen.

With the purpose of giving real significance to the new tool agreed during the Italian Presidency, we think that it would be useful to make use of the structured dialogue in order to comply with the annual reports of the Commission on the enforcement of the Charter of Fundamental Rights.

In the framework of a loyal cooperation between the institutions, the annual scrutiny inside the Council should also take into account the rulings of the European Court of Human Rights and the Venice Commission's reports. The EU Member States, as members of the ECHR, could be obviously subject to appeal before the Strasbourg Court. The Rule of Law is among the priority areas of cooperation between the European Union and the Council of Europe, as set out in the Memorandum of Understanding between the two organizations.

It is however necessary to solve these problems at political, and not only legal or judicial level, preferably operating within the EU framework, also because at present, after the Opinion 2\13, the two systems are not likely to converge, although the EU's accession to the ECHR is the road indicated by the Treaties. That's the reason why, it would seem appropriate that the results of the structured dialogue were systematically brought to the attention of the national parliaments, so to involve them and share the responsibility.

Some scholars have indicated different paths which require a review of the EU Treaties: to redraft the wording of Article 2 so to ensure its direct effect, or remove Article 51 of the Charter of Fundamental Rights, extending its scope to all the activities of the Member States (even when not connected with European Union law) or setting up an ad hoc "Committee of Copenhagen".

One solution could be simpler: the introduction, in the context of the next reform of the Treaties, of a new legal basis in Article 7 TUE in order to allow the adoption of mandatory decisions by the Council by a qualified majority, after a proposal from the Commission or from one third of the Member States or the European Parliament, decisions which would indicate to the Member States the concrete measures to be taken so as to improve the enforcement of Rule of law.

With a view to a future revision, this could lead to both a voluntary withdrawal and the expulsion of a

Member State which infringes systematically the Rule of law. If compliance with the principles of Article 2 TUE is a condition sine qua non for the accession of a new country to the European Union, there is no apparent reason for which such a compliance should not be configured as a necessary prerequisite for maintaining the membership. These situations of conflict could not be obviously managed only by the EU institutions, but it should include also national parliaments.

Yes: rule of law is crucial. Our credibility is at stake. Let's prove we are up to the mark of these new challenges.

Thank you.

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Autore: [Sandro Gozi](#)

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