

**JOINT PARLIAMENTARY MEETING**  
**From Tampere to The Hague: Moving Forward?**  
**Progress and shortcomings in the area of Freedom, Security and Justice**

**Section 6. October, 3rd 2006**  
**COMBATING TERRORISM. HOW TO IMPROVE ITS EFFECTIVENESS AND**  
**THE OBSERVANCE OF FUNDAMENTAL RIGHTS**

**Introductory remarks by Sandro Gozi,**  
**Member of the Chamber of Deputies - Italy**

Mr Chairman, Colleagues,

There is a very clear linkage between security policy and human rights protection, and between the right to security and the security of rights.

I recall what the United Nations Secretary General, Kofi Annan, has said: the defence of human rights is key to the success of any counter-terrorism strategy. It underpins it. The human rights are those of the victims of terrorism, of the people under suspicion, and of those who suffer the consequences of terrorism.

But in Europe today we find ourselves confronted with an extremely complex situation, in which the most serious threat comes from populism.

Populism that feeds on fear , widespread fear , and the growing demand for security from our citizens. Public opinion in many member states seems to give far greater importance to protecting the citizens than to extending their freedoms, and focuses on how citizens should be protecting themselves in the present state of world disorder.

These trends are particularly important in the European Union, for it is perceived much more as a Union which is extending mobility and freedom than as a place for protecting citizens. But it is becoming increasingly clear today that while citizens want the freedoms that the Union has to offer, they also demand protection against the negative consequences of these freedoms.

This is not an abstract question, because the drift towards populism runs the risk of poisoning the very founding values of the Union, and hence of having negative repercussions on the whole integration process.

I am convinced that greater European solidarity is the key to the ability to strike this new and difficult balance. Many of you will have seen the article in the weekly newspaper, "The Economist" entitled "*In Europe we don't trust*", dedicated specifically to the question of security. In that article, addressing the last Tampere summit, the writer says that the EU should learn to live with some mutual suspicion, by moderating its ambitions and respecting national self-interest, rather than wanting to go back to the days when countries pooled their

fundamental sovereignty over many areas at the European level.

Well, colleagues, I am convinced that we have to do exactly the reverse. Indeed, faced with the challenge of terrorism, which seeks to undermine the very foundations of our democracies by attacking our fundamental freedoms, national sovereignty looks like a figleaf, as someone has said, that serves the sole purpose of concealing the impotence of the nation states. For democracies are facing supranational threats that demand supranational responses, solidarity and trust.

After 11 September, the emotion and the reactions in Europe were very powerful, but they soon came up against huge difficulties: combating terrorism is highly complex because of an inadequate institutional environment and a lack of a common approach to fundamental rights.

As far as the institutional aspects are concerned, there are various democratic and national shortcomings:

- no possibility exists for citizens to apply to the European Court of Justice themselves
- the unanimity rule makes decisions excessively lengthy and complex
- there is no adequate democratic control over international agreements that have been concluded in the matter of terrorism whether at the European level or at the national level .

The absence of a common approach to human rights has emerged in all its evidence in the case of data protection, where the data are needed for security reasons: this right is protected differently according to the legal basis of the measure: Community Treaty or police and judicial co-operation in criminal matters.

Even in the context of the United Nations, with respect to financial aspects or to criminalising acts preparatory to terrorism, although it is clearly necessary to work towards common policies to combat terrorism, it is equally clear that there must be compatibility and complementarity with fundamental rights and respect with the principle of proportionality.

- (I am referring, for example, to cases recently examined by the Court of First Instance, which evidently demonstrated the need not to excessively restrict the right to self defence and to de-listing when drafting lists prior to pre-emptive measures decided by the Security Council).

The national objections by some members to appropriately consider fundamental rights have also emerged in the cases of the fundamental rights agency which will not be allowed to address possible violations of these rights in the case of the adoption of legislative acts against terrorism.

These objections, coming at the time in which we are trying to build up an area of freedom,

security and justice, are very dangerous both with regard to the democratic principle, given that the role given to parliaments is not adequate, and to the principle of legality, given that there is no possibility of judicial control.

It is therefore certainly necessary to enhance the role of the national parliaments which should be more closely involved in the drafting of counterterrorism strategies agreed at the European level.

National parliaments are the place in which to balance the rights of freedom against the guarantees of the security of the citizens, if for nothing else than because of the immediate relationship it has with the Executive. Chairman Cavada has rightly raised the issue of strengthening operational ties with national parliaments in this regard.

And it is also necessary to review a number of the decision-making procedures at the European and national levels alike.

- At the European level, the *passerelle* clause has to be used, under article 42 of the EU Treaty, for reasons of efficiency - the right of veto prevents any real progress being made - and of democratic control.
- It was for this reason that the last meeting at Tampere was not satisfactory. In Italy we have adopted the constitutional treaty with a huge parliamentary majority, and we want to do everything possible to restart the constitutional process. But in the meantime, we cannot sit back and do nothing: the *passerelle* clause is not a foretaste of the constitutional Treaty. It is a transitional measure, awaiting the constitutional reform which will enable Europe to respond more effectively to the increasing demand for democracy and security coming from the people of Europe. Recourse to the *passerelle* provision would have the opposite effect to what some fear: it would show the importance of the broader reforms provided by the constitutional Treaty. Our parliament has recently adopted a very clear resolution in this direction.

We believe that the Commission's antiterrorism plan of action is moving in the right direction, and must be fully implemented at the national level. Even though the deadlines for implementing the EU instruments have been shortened, however, their implementation continues to be too slow.

From Italy's experience with combating terrorism (in the 1970s and 1980s) and the Mafia (in the 1980s and 1990s) we can draw some useful lessons for the new counterterrorism actions that are needed at the European level. An exclusively law-enforcement approach is not enough, and does not offer adequate guarantees of security.

We have to develop prevention mechanisms, of which I would cite the following examples:

- cooperation between the intelligence services
- combating terrorism incitement and recruitment
  - to this end we have to develop provisions such as the framework decision 2004/475 which creates a system encouraging people to turn state's evidence: in other words we have to encourage people to dissociate themselves from terrorism, contribute to the investigations, and co-operate with the police authorities.
- Social and cultural preventive measures
  - As Commissioner Frattini quite rightly said several times already we have to channel and more effectively use the various policies of the Union to take greater account of the many factors that contribute to violent radicalisation.
- Lastly, we have to strengthen the external dimension of counterterrorism actions:
  - By exploiting to a much greater extent the unused potential of the neighbourhood policy, both to deal with aspects relating to fundamental rights and those relating to security.
  - By taking up common EU positions before the Security Council adopts resolutions.
  - By more carefully implementing article 19 of the TEU relating to the role of the EU member States also on the Security Council. Italy will endeavour to do just this in 2007.

We believe that by proceeding in this direction, the European Union will be able to act more forcefully against terrorism without reneging either on itself or on the rights which underpin it. Thank you.