

‘WHY EUROPE STILL NEEDS HUMAN RIGHTS’

BUDAPEST, 5 OCTOBER 2017

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Distinguished professors, students, ladies and gentlemen,

I am honoured to speak to you on the first day of my visit to Hungary. I have been fortunate to visit Budapest on a number of previous occasions, and I am strongly drawn to this city; not only because of its beauty, but also because of its rich history and the warmth of its people.

My topic today is “Why Europe Still Needs Human Rights”. I am impelled to address this because of the worrying patterns of human rights violation and the extent of challenges to the very system itself that we see in some countries. I will structure my remarks as answers to the following four questions:

1. What human rights do we have in Europe and how did we get them?
2. Has Hungary made a contribution to the human rights infrastructure?
3. What challenges do human rights face in the EU and in Hungary?
4. How can we counter these threats and move forward?

1. Over centuries of war and bloodshed, Europe has had many dark chapters. But it was after arguably the darkest of all, when the continent and indeed the world was still reeling from the shock of the Holocaust, that the modern-day story of human rights in Europe begins.

The Universal Declaration of Human Rights proclaims the *“recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family”* absolutely and unequivocally. As the Nobel prizewinning poet Seamus Heaney said:

“The Declaration has succeeded in creating an international moral consensus. ... Even if its Articles are ignored or flouted – in many cases by governments who have signed up to them – it provides a worldwide amplification system for ‘the still, small voice’.”

Here in Europe we have elaborated the most sophisticated of all the international human rights legal frameworks, comprising a rich interplay of European Union law with Council of Europe and United Nations standards. Article 2 of the EU Treaty stipulates *“respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights”* not only as the values on which the EU is founded, but values that are shared by all EU member states.

The development of the EU’s human rights framework culminated in the adoption of the Charter of Fundamental Rights, which drew directly on the Universal Declaration. The Charter, the EU’s very own bill of rights, does not meddle in countries’ internal affairs. It simply lays out the inalienable rights of each person living in the EU.

Each individual in the European Union has a claim to the rights of the Charter. Wherever these rights are directly applicable, they override conflicting national law and Europeans can invoke these rights before local courts.

As well as the Charter, fundamental rights are enshrined in the general principles of law developed by the European Court of Justice. These principles co-exist with the constitutional traditions and institutions of its Member States. Of course, they also draw on the European Convention of Human Rights, to which all EU Member States are party; respect for the Convention and all it entails is a condition for membership of the EU.

Europe’s strong normative framework for human rights is supported by an impressive infrastructure of institutions. At the national level these include national human rights institutions and equality bodies. Regionally they include the body that I serve, the European Union Agency for Fundamental Rights.

2.Has Hungary played a role in all of this? Yes, of course!

It was the German Chancellor Helmut Kohl who said: *“Hungary was where the first stone was removed from the Berlin Wall”*. In 1989, thousands of East Germans arrived in Budapest and were able in this way to cross the border into Austria, which would have been impossible over the hard border that separated the GDR from the Federal Republic.

After the transformation, Hungary was at the forefront of the countries that formerly lay behind the iron curtain. Indeed, in 1999 Hungary and the other candidate countries were observers to the process of drafting the Charter of Fundamental Rights. It was because of its ability to conform so quickly to the enormous body of EU law that it joined the EU together with seven other Central Eastern European countries in 2004.

3. However, we have to acknowledge that time has not stood still. So to move on to my third question – what challenges are human rights facing?

First of all, we must recognise that the challenges to human rights in Europe are grave and growing. We see this every day in the situation of refugees and other migrants. We see journalists whose freedom is curtailed to an unacceptable extent either by the State or the private sector. Our data privacy is at risk from surveillance by the state, which in turn is seeking to assuage public fears about terrorism. We see the threat of rising intolerance, both on- and offline. I am also concerned about the levels of inequality in our societies and the incidence of poverty, including child poverty. Here in Hungary it is worthwhile recalling how inequalities have hit such minority groups as the Roma particularly hard.

The human rights system

Beyond unacceptable patterns of failure to deliver effective human rights protection we must acknowledge an underlying malaise – this is the increasing willingness of some who hold power to repudiate the very human rights values and systems

themselves. This phenomenon is relatively new and it is a matter of extreme concern, given the way in which it can corrode the system and weaken it.

Allow me to address just some of the most pressing contemporary concerns in more detail.

Migration

I will begin with migration, a topic set to remain at the top of the EU agenda and a major preoccupation of my Agency. I am just back from a visit to the so-called reception ‘hotspots’ in Greece and Italy and I have seen how, despite considerable goodwill and great effort, so much remains to be done to ensure decent conditions and to guarantee the safety of men, women and children. I am particularly concerned about the detention of migrants, particularly migrant children, which must always be an act of last resort. It will be impossible to get the Dublin system to work effectively as long as systematic detention is taking place, as well as alleged pushbacks in some member states.

We would do well to keep in mind the words of St. Stephen, the founder of the Hungarian nation state:

"A country that has only one language and only one tradition is weak and failing. I therefore urge you to welcome foreigners kindly and to hold them in honour, so that they prefer to stay with you rather than elsewhere."

Of course, the migrants’ journeys do not end when they reach the EU, and neither do the challenges, as the Fundamental Rights Agency describes in its monthly reports on the subject. Those allowed to stay – and the EU has extremely strict rules about who can and cannot remain here – must be assisted. Only when they have accommodation, have the opportunity to learn the language and send their children

to school, and their qualifications have been recognised, can they begin to contribute with their own skills and experience to our societies.

However, a major impediment to the process of integrating migrants is the continued lack of a genuine European solidarity that is so much needed to ease the burden on Greece, Italy and other affected EU countries.

A Hungarian proverb seems relevant: *“as you greet others, so will you be greeted yourself.”* This proverb may also remind us of the ethical action demanded of ourselves – after all, and as history has shown, we can never be sure what tomorrow will bring. Indeed, here in Hungary, it is not so long ago that your compatriots were forced to seek refuge from the events unfolding in your own country. Our histories remind us that solidarity is not just a value that relates to circumstances today, but stretches back to the past and forward to the future. This is also what makes solidarity so powerful as a core value for Europe, with its chequered history and diverse present.

Rule of law

The rule of law is vital to a functioning democracy. This is recognised clearly in the Hungarian constitution, whose Article B states: *“Hungary shall be an independent, democratic state governed by the rule of law.”*

Four of the most important aspects of rule of law are: an independent judiciary, a free media, integrity of public officials, and the principle of legal certainty. All these are critical to the overall human rights framework.

A breakdown in the rule of law would be devastating for a state. It could lead to a collapse of public trust in the fairness and quality of a country’s political and legal system. The impact for human rights is obvious. Less evident perhaps are the ancillary concerns such as financial repercussions – here I have in mind the need for investors to have trust in a country if they are to put their faith and their money into it. In other words, a level playing field and a strong judicial system foster the investment that the

economy needs. Respect for the rule of law can therefore be regarded as a key element of sustainable economic growth.

All the dimensions of the rule of law constitute essential constraints on the abuse of power, and in this way serve as guarantors for our democracies. And I would like to stress that each Member State in the European Union can be proud to be a fully-fledged democracy. In this regard all of us Europeans should be proud of the achievements of those countries that struggled against and surmounted totalitarian rule in the not-so-distant past. 28 years is – as anyone who has children will testify – no time at all.

Civil society

Civil society plays an essential role for a vibrant, free society that respects human rights. Furthermore, it is a straightforward matter of international human rights law that the state must foster a space within which civil society can thrive. However, for a number of years now, civil society organisations in the EU and beyond have reported a diversity of pressures. Problems range from direct physical attacks on persons and property, reduction in access to financial resources, through to burdensome regulation and far fewer opportunities to access decision makers. This is an issue that my Agency is following closely, and it will be the subject of a major report of ours later this year that will assess the situation and propose actions relevant to all 28 EU Member States. And let me take this opportunity to express appreciation for the role played in supporting civil society by the EEA and Norway Grants in their 15 beneficiary countries, including in Hungary.

Academic freedom

Academia is a key component of civil society. It is vital that the EU remains a space in which researchers, scientific knowledge and technology circulate freely. Article 13 of the Fundamental Rights Charter, which was approved by the leaders of all EU

Member States in 2007, reflects national and international standards by explicitly stating that the arts and scientific research must be free from constraints.

Colleagues,

You may be surprised that so far I have made little direct mention of the current circumstances in Hungary. But rather than reiterating the authoritative commentary and recommendations of the European Commission or the Council of Europe, I have sought to examine the situation in a broader context. And as I hope I have made clear, there is no EU country in which human rights are not at risk.

At the same time, there are indeed areas of concern here in Hungary in light of the applicable European and international treaty-based human rights commitments. During this visit I seek to discuss these with the authorities in an open and frank manner. In so doing, I offer the advice of the Fundamental Rights Agency in addressing those areas and issues where we have the appropriate expertise and mandate.

4. By way of conclusion, I would like to suggest a number of actions that we could all undertake in order to address the human rights deficiencies across our European societies.

First, fight the fear. The fear of change, of poverty, of safety for one's family and loved ones is tangible in Europe today. This fear is not only fuelling support for populists in the EU and beyond, but it is all too often leading to hatred. Hate campaigns, whether against a single person or an idea, are unjust, undemocratic and unacceptable.

István Bibó [Eesht-van Bee-bo], the great Hungarian political philosopher and lawyer who played such an important role in the 1956 revolution and was sentenced to life imprisonment by the Communist authorities, said:

"To be a true democrat, it means, above all, that you do not fear: it means not to be afraid of other opinions, other languages, other religions, depravity ... and all those imaginary perils which are becoming a real danger since we are afraid of them."

To believe in open societies does not mean to be unpatriotic or to turn one's back on one's country, neither does it entail becoming a member of some rootless, internationalist elite. We can be patriotic, tolerant, and assist those in need. We need not be afraid.

Second: invoke the law. It is imperative that we return, again and again, to the point that human rights are not about 'being nice' to people, or for that matter charity or philanthropy. States have made legally binding commitments that they must stand up for and adhere to – it's as simple as that.

The recent ruling of the European Court of Justice against Hungary and Slovakia on relocation quotas is a case in point. It goes without saying that this court decision needs to be complied with.

One other dimension of the legal nature of our claims is the importance of not going beyond the legal entitlements – or – to put it more clearly – avoiding framing claims as legal entitlements when they are not addressed by the national, regional or international legal obligations.

Third: use solid data. We need to listen more and better to the rights-holders, both the general population and groups most at risk of abuse. This is part of the core work of the EU Agency for Fundamental Rights.

For instance, just two weeks ago, we published the findings of a major survey of Muslim communities in 15 EU member states. Many people were surprised to learn from this that the overwhelming majority of Muslims in the EU have a strong sense of belonging to their countries of residence, despite the widespread prevalence of discrimination. Notably, their trust in democratic institutions such as the police or the justice system is stronger than among much of the general population.

Fourth, rehabilitate the concept of human rights. We have to repudiate the increasingly vocal claim that human rights is a failed project or at best that it is irrelevant to the great issues of the day. We also need to challenge the growing

sense that rights are not about ‘us’, but instead are for ‘the others’, who are different and less deserving.

That is why it is more important than ever for us to demonstrate to our brothers and sisters that human rights are about us – all of us. This we can by framing the great issues of the day – such as unemployment, access to health care and the conditions of older people – as human rights issues. We also need systematically to make the business case showing how human rights-respectful laws and policies are more sustainable – they make for better societies.

Fifth and finally: have hope. I remain stubbornly optimistic. Despite the worrying trends I have outlined I detect an impressive and growing pushback – a return to the principles and values laid down in the EU’s founding treaties; a greater balance in public debate; and a resilience of the young in demanding integrity and respect for human rights. Take, for example, the tens of thousands of people here in Budapest who have demonstrated on key issues in recent times.

We have a long way to go – of that there is no doubt – but we must proceed with an optimism founded on the spirit of the achievement of our peoples through the centuries. We must have the courage of our convictions, the courage to speak out against human rights violations, and the courage to act. With this courage, with energy and with good will, we to ensure that human rights protection does not become a hollow shell, but remains at the beating heart of our societies.

Let me leave the last word to another Nobel prize winner, the Hungarian writer Imre Kertész [Ker-teyss], who said:

“At the bottom of all great realisations, even if they are born of unsurpassed tragedies, there lies the greatest European value of all, the longing for liberty, which suffuses our lives with something more, a richness, making us aware of the positive fact of our existence, and the responsibility we all bear for it.”

Thank you for your attention.