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Council of Europe Commissioner for Human Rights

Distinguished Chairperson!
Excellencies!
Ladies and gentlemen!
Dear colleagues!

It is a great pleasure to be back at the Permanent Council of the OSCE. Today, I would like to share with you some reflections on the broader human rights context with which I have been confronted over the last five-and-a-half years. Then, I would like to mention the most prominent cases in which my team and I were able to make a difference and have added value. I will also mention several “downs” – instances in which I wish we could have achieved more. Next, I will focus on two important issue areas that have been central to my mandate – migration and media freedom. Afterwards, I would be happy to address any questions or comments you may have.

The context of my mandate has been a series of overlapping human rights crises. The first crisis of my mandate was the economic crisis and the devastating impact this had on the human rights of the most vulnerable, access to justice, and social and economic rights more broadly. In some countries, the crisis continues; in all, the scars will take long to heal. The second crisis has been the situation in and around Ukraine, which continues to have devastating consequences for millions of people. The third, which is very much with us today, is the migration policy crisis. The fourth has been the many terrorist attacks followed by often problematic government responses to such attacks.

We have also witnessed serious human rights backsliding in several countries, where governments have undermined checks and balances, especially the independence of the judiciary, and put huge pressures on NGOs and media, including public service media. This backsliding has been accompanied by a broader weakening of the European human rights protection system. This weakening is most evident in the long delays in implementation of European Court of Human Rights judgments. It is also evident in selective implementation of judgments and outright challenges to the authority and legitimacy of the Court. These trends have been facilitated by a decline in popular and political commitment to the idea of European cooperation, European integration, and supranational supervision of human rights.

Despite this challenging context, I am gratified by certain “ups” or achievements, which were often possible because we were able to locate good partners in national contexts. The first “up” of my mandate was helping embolden and provide political and legal ammunition to the Greek authorities to crack down on the Nazi political party Golden Dawn, which threatened to upend Greek democracy early in my mandate.

A second memorable instance was our ability to be rapidly on the ground to do human rights monitoring soon after the eruption of the Maidan revolution. I was particularly pleased to hear from some of the activists I visited in detention that their detention conditions improved after our visit and that they attributed this to our work. I believe our human rights work on Turkey over the last year-and-a-half has

become an important reference point for many stakeholders, especially our work on the human rights aspects of the state of emergency and the situation in the South-East of the country.

I am also gratified by the agenda-setting role of some of my Office's thematic work. I worked hard to become an advocate for the United Nations Convention on the Rights of Persons with Disabilities in Europe, especially with regard to persons with intellectual and psycho-social disabilities. I also put gender equality, especially domestic violence and women's sexual and reproductive health and rights, firmly on the human rights agenda of the Council of Europe as an organization, but also on the agenda of certain member states. I also think we were "ahead of the curve" in identifying migration as a core human rights challenge early in my mandate and engaging with member states on the issue systematically. More recently, we have sought to advocate for long-term thinking regarding the new migrant arrivals, pushing the issues of migrant integration, especially family reunification and inclusive education.

I also believe I "stretched the mandate" in new directions. Every commissioner, even your High Commissioner on National Minorities, stretches his or her mandate. One new direction of work that I developed was submitting third-party interventions before the European Court of Human Rights as a major tool complementing my country reports. A second new direction was developing new forms of communications work on twitter, Facebook, thunderclap social media campaigns, films, and more for the benefit of human rights.

Despite these achievements, there have been many "downs" – times when I wish I could have achieved more. One significant "down" was not being able to do more when many of my Office's civil society partners were detained and/or imprisoned in several different Council of Europe member states. Another sobering experience was receiving reports of large-scale arrests, detentions, ill treatment and/or forced medical check-ups of LGBTI persons in several countries and realising I have few tools in my tool box to address these serious violations. Another stark experience was going twice to the non-government controlled areas of Ukraine in the Donbass, doing important work on freedom of movement, social rights, and ill treatment, but realising that I would not get access to places of detention.

It was also disheartening to see that in the aftermath of terrorist attacks, many governments moved very quickly to adopt problematic surveillance laws, while reports suggested that police increasingly resorted to ethnic and religious profiling. Europe-wide, we have seen a steady process of backsliding in the human rights protection of migrants, including persons in need of international protection. As this is an area on which I have worked in over twenty-five countries, let me devote a few additional remarks to this topic.

Migration is an issue that has inspired strong emotions, decisively shaped electoral outcomes, and been hugely corrosive of European trust and cooperation. What is more, it has often been accompanied by the worst sort of human rights violations. It is useful to recall the rights at stake. It is not only the prohibition on trafficking in persons or modern forms of slavery, it is also the ban on torture and ill treatment of persons in detention. When "push-backs" take place on land or at sea, they violate the right to seek asylum and the prohibition on the collective expulsion of aliens. The right to liberty and security of the person has become topical in the context of widespread unnecessary detention. We should pay much more attention to the situation of the most vulnerable people on the move - victims of torture, victims of trafficking, children, persons with disabilities, and women. After their arrival in Europe and the acquisition of status, some other rights become highly topical – the rights to equality, family life, and education.

Over the last five-and-a-half years, I have discovered a hidden world linked to migration, a world of migrant detention centres and airport transit zones, where people are kept up to sixty days. I have discovered that governments have a difficult time resisting the temptation to outsource migration control to third countries. Most recently, we have seen this with Libya, where we have learned about the horrific human rights violations perpetrated against migrants. We in Europe should all reflect about our role in facilitating these violations.

The significant number of new arrivals in 2015-2016 prompted many countries to adopt restrictive “emergency” or “temporary” measures granting temporary forms of status and restricting family reunification rights. These “temporary” measures risk becoming permanent. But they only hinder integration and thus, will further fuel the rise of the far-right, which will claim that migrants “cannot be integrated” or “do not want to integrate”. What we need are safe and legal venues for people in need of international protection to come to Europe, and the two core means in this regard are resettlement and family reunification. What we need is to think long-term about integration, about how we can help the new arrivals successfully find their way in our societies so as to maintain social cohesion.

The second issue area I wanted to focus on is media freedom, an area where my Office has had excellent cooperation with the OSCE’s representative on freedom of the media. Indeed, yesterday evening I met the new representative Harlem Desir and we had a very fruitful exchange. My own assessment is that we have seen a deterioration of media freedom across Europe and this has broader negative repercussions on the human rights situation. This is because it is often journalists who bring to light human rights violations. Moreover, quality journalism is key to informed civic participation. Finally, strong, independent media constitute a critical check on the executive and legislative branches of government, especially in those countries with overbearing parliamentary majorities.

In recent years, I have encountered a series of problematic issues affecting media freedom. Let me flag them in no particular order. The first is threats and attacks against journalists, including police violence against journalists, which is quite common during demonstrations in some jurisdictions. A second is “bad” defamation laws; by “bad” I mean laws envisaging criminal liability for defamation and/or levying disproportionate fines in civil defamation cases. According to recent surveys, this is the number one concern of journalists in some regions of Europe.

In other regions, a core concern is problematic counter-terrorism measures. Occasionally, such measures can risk compromising the confidentiality of journalistic sources. Sometimes, governments invoke security concerns in arbitrarily blocking the internet, which can also have deleterious effects on freedom of expression and media freedom. In many jurisdictions, concentration of media ownership is the core issue, a challenge which has often been exacerbated by the economic crisis. Some governments have sought to turn public service media into government media, thereby striking a blow at media pluralism more broadly. Finally, unethical or illegal behaviour by some journalists needs to be addressed through self-regulation and a greater focus on ethical, professional journalism. Left unaddressed, this problem strengthens the hand of those calling for media regulation from the outside.

All over Europe, the media landscape has changed dramatically over the last five-and-a-half years because of the economic crisis and the destruction of traditional media revenue streams due to the internet. I recently participated in an interesting event at which a journalist posed a tough question. She said that everyone says they want quality media, but who will pay for it? I would only add a follow-on question: what will be the consequence on human rights more broadly if nobody does?

Let me conclude by reiterating a point I have made often in the Council of Europe context: we should prioritise media freedom and the situation of human rights defenders. It is first and foremost journalists and defenders who make the human rights system function. They reveal human rights problems, raise awareness, hold governments to account, and help victims by transmitting their concerns to decision-makers, human rights structures, and national and international tribunals.

We all need to recommit to the values underlying our organisations, find new ways to communicate human rights, and engage with people who are sceptical of human rights or think they are irrelevant. I have sought to do my utmost in this regard. I have a little more than four months left in office and I intend to continue making trouble until the last day, even the last hour of my mandate. Thank you for your attention.