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COMMISSAIRE AUX DROITS DE L'HOMME



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## **ANNUAL ACTIVITY REPORT 2010**

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**by Thomas Hammarberg,  
Commissioner for Human Rights  
of the Council of Europe**

Presented to the Committee of Ministers  
and the Parliamentary Assembly

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## Foreword by the Commissioner

This report is an account of the activities of my office during 2010. Though we are a small team, only some 20 staff members, we have tried to live up to expectations through visiting a large number of member states. During these visits we have tried to identify remaining human rights problems and to assist in the analysis of what can be done to address these problems. In general, co-operation with the authorities has been constructive. We have also sought to encourage a discussion on key human rights problems through Issue Papers and regular Human Rights Comments – largely based on experiences from our country visits and discussions with authorities, but also with ombudsmen and other national human rights structures, non-governmental representatives and other experts. I have made a point of meeting people in difficult circumstances during my travels, for instance inmates in detention centres, psychiatric hospitals, homes for orphans or shelters for battered women.

While these activities are reflected in the present report and on a continuous basis on our web site ([www.commissioner.coe.int](http://www.commissioner.coe.int)), I want to mention here some broader problems which I have found to be widespread and requiring much stronger political action in order to be remedied.

Roma are still suffering discrimination and exclusion in country after country. Very little improvement has been achieved in their living conditions, access to education, housing, health and employment. It is imperative that the interest demonstrated during the autumn for their situation be translated into actions to eradicate discrimination towards Roma and Travellers. A first step must be to put an end to anti-Gypsyism, a major cause of the social misery of Roma. We must also aim at deepening Roma inclusion in society, widening their political representation and establishing broader opportunities for them to actively participate in community life. These goals concern all levels: local, national and international.

Another source of grave concern is the rise in xenophobic and racist movements, which have found fertile ground in the uncertainty created by the economic crisis. Nationalist and extremist groups have exploited these feelings for electoral purposes and too little has been done to oppose these extremist tendencies. I have been disappointed that leading politicians have not stood up more strongly for human rights principles in public discourse. More needs to be done to analyse the root causes of people's increasing support for populist and extremist parties and groups and address the public's fears with responsible leadership.

Islamophobia is part of this gloomy picture. Political leaders have on the whole failed to counter Islamophobic stereotypes. They have failed to make clear that Muslims are an integral part of our multicultural Europe and that over the centuries they have been contributing a great deal to Europe's development. It is high time that political leaders and governments publicly recognise this fact and take more resolute action against hate crimes and discrimination. If multiculturalism has failed it is because it has not been given a real chance.

Xenophobic tendencies have also influenced the policies towards migration, including the reception of refugees and asylum-seekers. More is needed to establish humane migration management and improve the treatment European countries reserve for migrants – among them the unaccompanied minors coming to our borders. We do need a new common European policy on migration and asylum which also distributes the responsibility for reception more evenly. The European Union and the Council of Europe should co-operate more closely on this, ensuring that any EU policy abides fully by human rights standards.

In order for these and other essential issues to be thoroughly discussed we need freedom of information and expression. Free media are essential to democracy. However, in this area also there are shortcomings in several European states. Some governments take action to prevent even modest and peaceful criticism in the media. Public service broadcasting is made dependent on government guidance and frequencies for radio and television have been allocated on political criteria. There is an unfortunate tendency of different forms of control, ownership and pressure – including restrictions to access to information – the sum of which reduce media independence and pluralism.

The personal security of journalists has become a serious concern. The politicised penalisation of the journalist Eynullah Fatullayev in Azerbaijan is one illustration. In the Russian Federation several journalists have been assaulted, some of them killed, by forces which have obviously wanted to silence them. It is crucial that such cases are thoroughly investigated and that the attackers – and those behind them – are brought to justice.

It is a grave problem that impunity in criminal cases still persists in Europe. This denies the very scope of the rule of law that we promote. Some of the worst crimes – with the worst repercussions for human rights in general – have gone unpunished. This has been the case in regard to a number of notorious assassinations of journalists and human rights defenders. In some of these cases the contract killer has been identified but not the forces behind them. This is extremely serious. Also, I have not been convinced that the investigations into these cases have always been sufficiently professional and well supported.

I have also noticed that there is increasing pressure on the right to freedom of association and peaceful demonstration. In some countries, the LGBT community (lesbian, gay, bisexual and transgender persons) has been one of the main targets of hate crimes and violent attacks. Political leaders should promote a more respectful attitude towards this heavily discriminated minority and lead by example in allowing different voices to express themselves in society.

The economic crisis continues to hit some groups of people who are already more vulnerable than others particularly hard. There are children who grow up in abject poverty in Europe today, some of them in single-parent families. There are elderly people who live in silent destitution and a number of persons with disabilities who cannot make ends meet. The exclusion of Roma, and other minorities in some countries, has also created inhuman misery.

Inequalities have been increasing in Europe for some three decades now and the current austerity budgets tend to victimise the most vulnerable groups. The right to a decent job is undermined by high unemployment rates – which in turn may become a threat to social cohesion and stability in society. I have pleaded for a more focused discussion on social rights. We should make better use of the values enshrined in the Social Charter, the 50<sup>th</sup> anniversary of which is celebrated this year.

Finally, I think it is crucial for our future to pay closer attention to the situation of women. Domestic violence, discrimination in the labour market, poor political and managerial representations are some of the problems which prevent women from playing the role they deserve in our societies. This is a shameful and inexcusable sort of segregation which has lasted for too long now. Governments must show real commitment and translate words into actions.

None of these concerns are new. I have been raising them since the beginning of my mandate, proposing concrete solutions to the authorities. It is my firm belief that governments can effectively tackle them by being more responsive to human rights criticism and acting more energetically for the prevention of violations. In this endeavour it is essential that they relate constructively to domestic “watchdogs” such as autonomous ombudsmen and equality bodies, active civil society groups and independent, ethical journalists.

Council of Europe was set up to defend basic European values such as human rights. On my side, I will continue to co-operate with the key actors in member states, seek to assist in the identification of shortcomings and to provide meaningful advice – while recognising fully that it is at national and local level that reforms must be decided and enforced.

Strasbourg, 15 March 2011



# 1 Country visits

## 1.1 Introduction

Continuous, constructive dialogue with member states, including country visits and their follow-up, remained a major aim pursued by the Commissioner in 2010.

The Commissioner continued his focused country visits to address specific human rights concerns as well as post-conflict and crisis situations. Reports published by the Commissioner after these visits contain both an analysis of the identified human rights issues and detailed recommendations to member states about possible means of improvement. In certain cases, as a follow-up to his continuous dialogue with national authorities, the Commissioner addresses letters to the former to outline possible concerns and to provide advice in order to remedy any shortcomings. The reports and letters, along with the replies from the authorities, are published on the Commissioner's website and are widely circulated among policy-makers, NGOs and the media.

The present chapter gives brief summaries of the Commissioner's visits carried out in 2010 and of their outcomes.

## 1.2 Visits

### *Visits to Russian Federation*

The first of the Commissioner's two visits to the Russian Federation in 2010 took place from 20 to 21 January in Moscow. At the end of that visit, he was received by the President of the Russian Federation, Dmitry Medvedev, at the Kremlin. The issues discussed included the implementation of the recommendations made by the Commissioner in his report on Chechnya and Ingushetia (September 2009 visit), as well as necessary steps to protect human rights in the field of administration of justice.

Commissioner Hammarberg welcomed the ratification by the Russian Federation of Protocol 14 to the European Convention on Human Rights, and of the Revised European Social Charter, as well as the decision of the Constitutional Court to prolong the moratorium on the death penalty.

The Commissioner underlined that serious problems remain in the North Caucasus, and highlighted the need to investigate past disappearances and clarify the fate of missing persons, as well as to eliminate the recurrence of killings, abductions and other major human rights violations. In this context, the Commissioner stressed the importance of effective and unhindered investigations into murders of human rights defenders.

Commissioner Hammarberg and President Medvedev also discussed initiatives to strengthen the rule of law and the protection of human rights in the areas of law enforcement, the judiciary and the prison system, as well as to combat corruption.

In the course of his visit to Moscow between 10 and 14 December 2010, the Commissioner met the Deputy Minister of Foreign Affairs, Mr Grigory Karasin, the Acting Head of the Investigating Committee of the Russian Federation, Mr Alexander Bastrykin, the Adviser to the President of the Russian Federation and the Chairperson of the Presidential Council for the development of civil society and human rights, Mr Mikhail Fedotov, and the Children's Ombudsman, Mr Pavel Astakhov. The Commissioner also met with representatives of non-governmental organisations. The Commissioner's discussions centred on various human rights matters, including the situation in the North Caucasus, investigations into crimes against human rights activists and journalists, measures taken to enforce the judgments of the European Court of Human Rights, freedom of assembly, and the protection of children.

The recent attacks on journalists in Russia prompted the Commissioner to meet with representatives of the Russian Union of Journalists and the editor-in-chief of the newspaper *Kommersant*, Mr Mikhail

Mikhailin. The Commissioner also attended a ceremony in Moscow organised on the occasion of Human Rights Day (10 December) by the Russian Federation Ombudsman, Mr Vladimir Lukin, during which a number of different personalities and organisations were honoured for their contributions to defending the rights and improving the lives of others, as well as preserving the memory of those who have suffered human rights violations in the past.

### ***Visit to Greece***

The Commissioner visited Greece (Athens and Patra) from 8 to 10 February to discuss issues relating to the protection of the human rights of asylum seekers and refugees, minorities, and the conduct of members of security forces. During the visit, he met with the Vice-President of the government, Mr Theodoros Pangalos, the Minister of Citizen Protection, Mr Michalis Chrysochoidis, the Minister of Justice, Mr Haris Kastanidis, and the Deputy Minister of Interior, Ms Theodora Tzakri. The Commissioner also met with the Greek National Human Rights Commission, the Greek Ombudsman, UNHCR and non-governmental organisations.

This visit provided the Commissioner with information that was particularly useful for his third-party intervention before the Grand Chamber of the European Court of Human Rights in the asylum case of *M.S.S. v Belgium and Greece*.

Following up to this visit, on 13 April, the Commissioner published three letters addressed, respectively, to the Minister for Citizen Protection, to the Minister of Justice, Transparency and Human Rights, and to the Deputy Minister of the Interior.

In the letter addressed to the Minister for Citizen Protection, the Commissioner welcomed the commitment of the Greek authorities to addressing long-standing, serious shortcomings in the field of asylum in Greece through the establishment of a fair, accessible and swift asylum claim processing system. He stressed the urgent need to support the ongoing reforms – which include the establishment of an independent asylum agency, the setting up of screening centres for migrants at entry points and measures to deal with the existing backlog of asylum applications and new asylum applications pending the entry into force of the new system – with the necessary institutional capacity and tools for implementation. The Commissioner also highlighted the need for the adoption of measures to ensure that practice relating to the detention of migrants conforms to Council of Europe standards, and especially the case law of the Strasbourg Court.

As concerns the planned establishment of an Office to deal with complaints of misconduct by the security forces, the Commissioner underlined the need to ensure the institutional and practical independence of the mechanism and the adequacy of its investigation powers in order to guarantee its effectiveness. In January the Commissioner had transmitted to the Minister for Citizen Protection his Opinion *concerning independent and effective determination of complaints against the police* (CommDH(2009)4).

In the letter addressed to the Minister of Justice, Transparency and Human Rights, the Commissioner highlighted the protection of the human rights of minorities, in particular the execution of the relevant judgments of the Strasbourg Court concerning the right to freedom of association, and the ratification by Greece of the Framework Convention for the Protection of National Minorities. The Commissioner also addressed the position of unaccompanied or separated migrant children, including those seeking asylum in Greece. He stressed the need to bring domestic practice concerning particularly migrant children's guardianship into line with Council of Europe standards and those enshrined in the UN Convention on the Rights of the Child.

In the letter to the Deputy Minister of the Interior, the Commissioner addressed certain aspects of the human rights situation of the Roma population in Greece, notably the need to combat anti-Gypsyism and the position of this part of the population in the context of migration, freedom of movement, and the right to housing. Mention was also made of the issue of the restoration of Greek nationality for those persons who lost it on the basis of former Article 19 of the Greek Nationality Code. Furthermore, Commissioner Hammarberg expressed appreciation for the legislative work aimed at facilitating the acquisition of

citizenship by, *inter alia*, children born in Greece to long-term foreign residents and children attending Greek schools, and extending the right to vote to long-term foreign residents.

### **Visit to Kosovo\***

The Commissioner visited Kosovo\* on 11-13 February 2010. This visit focused on the issues of forced returns of Kosovo\* Roma from European countries, the conditions of their reintegration and the situation in the lead contaminated camps in northern Mitrovica. The visit included: a visit to Roma Mahala in South Mitrovica; a visit to the lead-contaminated camps (Česmin Lug and Osterode) in North Mitrovica; meetings with Pristina authorities, diplomatic representatives and international organisations/structures based in Kosovo\*; meetings with NGOs and human rights activists as well as a press conference.

The Commissioner deplored that the situation for the inhabitants in the lead contaminated camps had not changed. He said that the camps have been inhabited for a full decade and that the international community has a large part of the responsibility for this situation. The contamination has irreversibly affected the health of many of the inhabitants of the camps, especially children. The Commissioner urged the authorities and the international community to provide new and safe housing to Roma families and close the camps. He underlined that the families should also be provided with assistance and decontamination treatment.

The Commissioner indicated that a number of forcibly returned Roma families ended up in secondary displacement in the toxic camps of Česmin Lug and Osterode. He underlined that with 20 000 internally displaced persons, unemployment lingering at 50%, practically no schooling in minority languages, no adequate healthcare and other social services, Kosovo\* was not ready to receive Roma returnees and integrate them. The Commissioner noted that the return policy particularly victimised children, many of whom were born and have grown up in the host countries. Moreover, the return policy has proven to be ineffective. Of those forcibly returned to Kosovo\*, no less than 70-75 per cent could not reintegrate there and moved to secondary displacement. The Commissioner called upon the European governments to halt forced returns of Roma to Kosovo\*.

### **Visits to Georgia**

From 26 to 28 February and from 30 April to 4 May, the Commissioner visited Georgia to pursue his efforts towards the release of detainees and the clarification of the fate of missing persons. The Commissioner established that families of detainees on both sides would be allowed to pay visits to their imprisoned family members. Following the Commissioner's visit to Tskhinvali on 2 May, three detained Georgians were released and another three were freed on 13 May. Pursuant to an initiative by the Commissioner, the Georgian authorities had already released six detainees on 30 March. While welcoming these steps, the Commissioner underlined that there are still people who should be released from custody, cases of missing persons whose fate must be clarified, and families who are suffering because their loved ones are detained or have disappeared. It is therefore absolutely crucial for both sides to follow through and build on the positive steps they have already taken in response to the Commissioner's efforts.

On the occasion of his February visit, the Commissioner also introduced two international experts who had the role of monitoring investigations into cases of missing persons on all sides. The investigators, each with extensive experience with major police investigations into serious crimes, started their work with the case of three young Ossetians who went missing in October 2008. From the beginning of March until the end of June, the experts sought to assist the relevant officials and authorities in control in establishing the circumstances surrounding these cases. The experts worked with Incident Prevention and Response Mechanism (IPRM) partners, including with the EU Monitoring Mission (EUMM), and also co-ordinated their work with the International Committee of the Red Cross. They reviewed investigation documentation, assessed the investigation's progress and problems, and conducted interviews with

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\* All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

various persons, including the families of disappeared persons. They also provided advice on methodology and the further direction of the investigations.

The cases which the experts were asked to include in their work had all been published with some photographic evidence in the form of video recordings on the Internet. One of the cases related to three young Ossetians (Alan Khachirov, Alan Khugaev, and Soltan Pliev) who had gone missing on 13 October 2008, i.e. two months after the August 2008 conflict, close to the administrative boundary line (ABL). The other cases concerned disappearances which occurred during or immediately after the August 2008 hostilities. One case related to the fate of Radik Ikaev, who was reported to have been captured by Georgian troops on 8 August 2008, and who later disappeared.

The Georgian Ministry of Internal Affairs requested that the experts endeavour to find out what work had been done in Tskhinvali to clarify the fate of Giorgi Romelashvili, a Georgian soldier who had disappeared along with two other soldiers who had been members of the same tank crew on 8 August 2008. The Ministry also provided a video showing a soldier, Giorgi Antsukhelidze, being subjected to serious ill-treatment during an interrogation. Subsequently, an application concerning this case was brought to the European Court of Human Rights. Another case raised by the Ministry of Internal Affairs related to Kakha Khubuluri, who was shown on a video in a group with other captive soldiers. The bodies of Antsukhelidze and of Khubuluri had been handed over by the de facto authorities of South Ossetia to the Georgian authorities.

On 25 March 2010 the experts facilitated the travel of family members of the three missing persons from Tskhinvali to Gori in order to give statements to the Gori prosecutor. One of the recommendations made by the experts to the Georgian investigating authorities was that victim status be granted to the mothers of three persons who went missing in October 2008 (Alan Khachirov, Alan Khugaev and Soltan Pliev). On 27 May 2010, the experts were informed of the decision of the competent prosecutor to grant victim status to the mothers.

On 29 September, the Commissioner published a report on the work of the experts, entitled "Monitoring of investigations into cases of missing persons during and after the August 2008 armed conflict in Georgia" (CommDH(2010)35).

The report of the experts highlighted some serious shortcomings in the process of clarifying the fate of missing persons and ensuring accountability for the perpetrators of illegal acts. The experts encountered a situation where a variety of obstacles blocked the path to the truth.

In the cases of Khachirov, Khugaev and Pliev, the experts found that very little activity had taken place to investigate this case in spite of prompting by the EUMM, the Georgian Young Lawyers Association and the parents of the missing persons during the period of almost a year and a half which had elapsed since the disappearances. Though some steps were subsequently taken on the advice of the experts, including the possibility for the mothers of the missing to give testimony to prosecutorial authorities, there continued to be a number of technical shortcomings in the investigation. A major problem related to the very integrity and impartiality of the investigation: though there had been serious allegations implicating the involvement of law enforcement officials in the disappearances, the operational execution of the investigation was not kept separate from the service to which the implicated officials belonged. The experts therefore recommended that the necessary steps be taken to ensure that the investigation be fully independent and effective.

In the case of Radik Ikaev, the experts noted that it is well established that Ikaev was captured and detained by Georgian military personnel, that he was seen by witnesses while in captivity, and that he then disappeared. Obviously, these circumstances call for a criminal investigation.

During the work of the experts, it emerged that the man shown on the video recording provided to them, and identified as Giorgi Romelashvili, was not recognised by the mother of Giorgi Romelashvili as her missing son. The experts nevertheless sought to contribute to the clarification of the fate of Giorgi Romelashvili, and concluded that the tank of which he was a crew member had been completely

destroyed on 8 August 2008. It is important to clarify the circumstances of this matter more precisely, as well as to determine the real identity of the soldier in the video in question.

The video recordings depicting Georgian soldiers (Giorgi Antsukhelidze and Kakha Khubuluri) captured by opposing forces were discussed by the experts with representatives of the de facto authorities in Tskhinvali. The experts reported that the position of Tskhinvali was that the cases concerned did not involve disappearances (the bodies of the persons had been delivered to the Georgian authorities) and were therefore outside of the purview of the work of the experts. The experts therefore deduced that there had not been any attempt to ensure accountability of the persons who are shown perpetrating violent acts against Antsukhelidze, nor has there been any attempt to clarify how Khubuluri apparently came to die while in captivity.

Ensuring the humane treatment of detained persons is a principle which must not be abandoned. Any crimes against such persons must be thoroughly investigated. Whether such crimes occur during armed conflict makes no difference in this regard. Ill-treatment of prisoners constitutes a violation of both human rights and international humanitarian law.

On 7 October the Commissioner published a report on human rights issues following the August 2008 armed conflict in Georgia based on a series of visits which he carried out in late 2009 and in 2010. The report takes stock of the implementation of the six principles for urgent human rights and humanitarian protection, which the Commissioner formulated in the aftermath of the August 2008 conflict.

The Commissioner noted with regret that hardly any progress had been achieved with regard to returns of persons who fled South Ossetia in August 2008. He emphasised once more the right of internally displaced persons and other conflict-affected individuals to care and support, including access to food, water, sanitation and basic services, as well as the need to secure durable housing solutions based on the principle of provision of information to and consultations of those directly concerned. The Commissioner welcomed the fact that almost all remnants of war had been removed from the areas affected by the conflict. He reiterated the need to establish viable security arrangements, including the good-faith implementation of the Incident Prevention and Response Mechanism, and the institution of confidence-building measures for the population on all sides. While the Commissioner welcomed the releases of detainees which had taken place, he urged the sides to refrain from arresting and detaining people who cross the administrative boundary line. All persons detained by the opposing sides as a consequence of the conflict should be released, and the process of clarifying the fate of missing persons and returning mortal remains should continue. The Commissioner expressed regret about the lack of progress with regard to humanitarian access to the areas affected by the conflict and called on all actors to facilitate the establishment of a human rights presence in the areas affected by the conflict.

The Office of the Commissioner for Human Rights will continue to follow the situation in the conflict-affected areas, including the implementation of the concrete recommendations formulated in the report.

### ***Visit to Azerbaijan***

The Commissioner visited Azerbaijan from 1 to 5 March. In the course of the visit, the Commissioner met with President Ilham Aliyev, the Minister of Internal Affairs, Mr Ramil Usubov, the Minister of Justice, Fikrat Mammadov, the Deputy Minister for Foreign Affairs, Mr Mahmud Mammad-Guliyev, the Prosecutor General, Mr Zakir Garalov, and the Head of the Azerbaijani delegation to the Parliamentary Assembly of the Council of Europe, Mr Samed Seyhidov. He also held discussions with the Ombudsperson, Ms Elmira Suleymanova, and representatives of civil society. In addition, the Commissioner visited the Autonomous Republic of Nakhchivan for the first time, where he met the Chairman of the Supreme Council, Mr Vasif Talibov, as well as the Ombudsperson, Mr Ulkar Bayramova, and civil society representatives.

The Commissioner also went to prisons where he talked with the journalists Mr Ganimat Zahid, who was released two weeks after the visit following a pardoning Decree issued by the President on the occasion of Novruz holiday, and Mr Eynulla Fatullayev, and the two youth activists Mr Emin Abdullayev and Mr Adnan Hajizadeh.

On 29 June, the Commissioner published a report on his visit. The report focuses on freedom of expression and association, the conduct of law enforcement officials and administration of justice, and contains some observations on the visit to the Autonomous Republic of Nakhchivan.

The Commissioner highlighted his continuing concerns about cases of threats, harassment, and violence against journalists or human rights activists which have not been properly investigated. He stressed that anyone imprisoned because of views or opinions expressed, including Eynulla Fatullayev, Emin (Mili) Abdullayev and Adnan Hajizadeh, should be released immediately. Furthermore, the Commissioner underlined that the decriminalisation of defamation is a prerequisite for bringing the national legislation into line with European standards.

While recognising the need to promote professionalism among journalists, the Commissioner expressed strong reservations about the existence of a black-list of racketeering newspapers, published by the Press Council, and invited it to reconsider this practice.

The Commissioner acknowledged the willingness of the authorities to take steps to facilitate the registration of NGOs, but was concerned about recent legislative changes which could limit freedom of association.

As regards the issue of misconduct by law enforcement officials, the Commissioner called for an independent and effective investigation of all allegations of torture and ill-treatment, with the imposition of appropriate sanctions. He recommended the adoption of adequate measures to ensure the independence of the judiciary and respect for fair trial guarantees.

Concerning the situation in the Autonomous Republic of Nakhchivan, the Commissioner emphasised that involuntary placement in psychiatric institutions should be allowed only by court decisions issued on the basis of a medical assessment. In relation to the events that took place in Bananyar, the Commissioner recalled that any allegations of ill-treatment must be effectively investigated, in accordance with international standards.

### ***Visit to Croatia***

The Commissioner visited Croatia (Zagreb, Međimurje, Ježevo, and Vukovar) from 6 to 9 April to discuss the human rights of displaced persons and asylum seekers, proceedings relating to post-war justice and the situation of Roma. During the visit he met with national authorities, including President Ivo Josipovic and Prime Minister Jadranka Kosor, regional and local authorities and representatives of international and non-governmental organisations.

Following up to this visit, on 17 June, the Commissioner published a report. In his report the Commissioner welcomed the efforts made by the Croatian authorities to resolve long-standing human rights issues caused by the 1991-1995 war, underlining at the same time the fundamental right of all displaced persons to voluntary return in safety and dignity. He highlighted the urgent need to provide just and sustainable solutions for returnees, with particular attention to former occupancy/tenancy right holders, and to facilitate their integration in particular through naturalisation and convalidation of pension rights. The Commissioner called for an urgent demining of the parts of the national territory which are still contaminated. As regards refugee protection, the Commissioner called for further improvements in asylum law and practice, in particular by ensuring free legal aid in first instance proceedings, allowing interviews in the accelerated procedures and creating a permanent reception centre for asylum seekers. He underlined that special care should be given to vulnerable groups of migrants, including victims of ill-treatment and trafficking as well as unaccompanied or separated children.

The Commissioner encouraged further efforts to effectively investigate the atrocities of the war and provide victims with effective domestic remedies, including reparation. He welcomed the openness and determination shown by the authorities and urged them to strengthen their co-operation with the International Criminal Tribunal for the former Yugoslavia and neighbouring countries. He expressed

concerns regarding continuing trials in absentia and called for the reinforcement of the efficiency of specialised courts and strengthened witness protection. The Commissioner encouraged the authorities to continue efforts aimed at identifying missing persons and enhancing inter-ethnic reconciliation and social cohesion, in particular through impartial history teaching.

Commending the efforts undertaken by the authorities to improve the situation of Roma, the Commissioner stressed that further progress is needed to achieve tangible results throughout the country. The Commissioner called for increased representation of Roma in political life, public administration and the judiciary and improved education, employment and housing for this minority. He urged the authorities to take additional measures to facilitate Roma access to citizenship, especially for children, and to free legal aid. The Commissioner expressed concerns about the persistence of anti-Roma manifestations, including violence, and recommended correcting the failures of the justice system and ensuring effective investigations.

### ***Visit to France***

On 19 May, the Commissioner visited Calais and the surrounding area to assess the human rights situation of migrants as well as the consequences of the European Union migration regulations. Meetings with the Mayor, the Regional Prefect, UNHCR and civil society were organised. On the following day, the Commissioner met with Mr Eric Besson, Minister of immigration, integration, national identity and solidary development.

On 21 September, the Commissioner published a letter addressed to Minister Besson concerning the human rights of migrants in France. The Commissioner's letter stressed the specific situation in Calais and its region and the police pressure to prevent the establishment of irregular camps of migrants. The Commissioner urged the authorities to treat migrants with full respect for their human dignity and their human rights including the right to seek and enjoy asylum if necessary.

Recalling his 2008 recommendations which had been addressed to the French Government, the Commissioner highlighted the lack of progress in certain areas, including the policy of fixing annual targets for the number of irregular migrants to be deported. The detention of irregular migrants, particularly of children, continues to be of concern to the Commissioner.

Whilst welcoming the recognition of the right for all asylum seekers to adequate accommodation and financial support, the Commissioner highlighted that, in practice, many of them continue to experience difficult living conditions.

As regards the draft immigration Bill, the Commissioner expressed concern at a number of its provisions, such as those concerning the intention to substantively reduce judicial review of the detention of migrants as well as to resort to accelerated procedures in a larger number of asylum applications. Moreover, the Commissioner noted that the proposal to grant Prefects the power to prohibit a migrant from entering the Schengen area for a period of three years could raise questions of compliance with the European Convention on Human Rights.

Finally, the Commissioner called on the French authorities to suspend returns of asylum seekers to Greece until the Greek national asylum system becomes fully operational and in line with European standards.

### ***Visit to Turkey***

From 23 to 26 May, Commissioner Hammarberg visited Turkey to continue his dialogue with the authorities, following up on his two reports published in October 2009 regarding the human rights of minorities and refugees. In this context, the Commissioner held high-level meetings with officials of the Ministries of Foreign Affairs, Interior and Justice, as well as with UNHCR and members of civil society in Ankara. In Diyarbakır the Commissioner met with the regional and local authorities and NGOs and visited the juvenile wing of the E-type prison. In this prison he met also with Ms Leyla Güven, member of the

Council of Europe Congress of Local and Regional Authorities, who had been detained since December 2009.

As a follow-up to this visit, on 8 July, the Commissioner published two letters addressed to the Minister of Justice and to the Minister of the Interior of Turkey. In the letter addressed to the Minister of Justice, Mr Sadullah Ergin, whilst welcoming the law reforms undertaken regarding juvenile justice, the Commissioner expressed his deep concern at the practice of arresting, detaining and prosecuting children pursuant to anti-terrorist legislation, particularly in east and south-east Turkey and stressed the need to reform the anti-terrorist law, and bring it into line with international and European standards. The Commissioner raised further concerns regarding the arrest and detention of a number of elected local representatives, mainly in south-east Turkey, most of whom awaited an indictment for several months. Finally he welcomed the legislative amendment following which local human rights boards could have access to places of detention without seeking prior authorisation from public prosecutors, and recommended the dissemination of this information to all provinces.

In the letter addressed to the Minister of the Interior, Mr Beşir Atalay, the Commissioner welcomed the plans of the government to enact new immigration and asylum legislation in accordance with the European Court of Human Rights' judgments, as well as the adoption of two relevant ministerial circulars in March 2010. He further addressed the improvements concerning the detention of asylum seekers, their access to asylum procedures and their exemption from residence fees in certain provinces and asked the authorities to closely monitor the situation with a view to ensuring coherent practice across the country. The Commissioner noted the progress made regarding the situation of persons coming from European conflict areas and the authorities' efforts to build new reception centres for asylum seekers. In his letter, the Commissioner also addressed the question of internally displaced persons and the need to fully respect their right to return home in safety and dignity, resettle or integrate locally.

### ***Visit to Cyprus***

From 9 to 12 June, the Commissioner visited Cyprus and delivered a keynote speech at the European Conference of Presidents of Parliament in Limassol. During his visit, the Commissioner also held bilateral meetings with the Cypriot authorities to follow up on the recommendations made in his 2008 report concerning the human rights of asylum seekers and refugees as well as the issue of trafficking in human beings. In this context he met with national authorities, including the President of the Republic Mr Demetris Christofias, the Minister of Foreign Affairs, Mr Markos Kyprianou, and the Minister of the Interior, Mr Neoklis Sylikiotis. The Commissioner further held discussions with representatives of international organisations and members of civil society on both sides of the Green Line. He also met with the newly elected leader of the Turkish Cypriot Community Mr Derviş Eroğlu and with the President and members of the Immoveable Property Commission.

On 26 July, the Commissioner published a letter he addressed to the Minister of the Interior of Cyprus, Mr Neoklis Sylikiotis, following his visit to Cyprus. The letter focused on the fight against trafficking in human beings and the protection of the human rights of asylum seekers and refugees. In his letter, the Commissioner welcomed the measures taken by Cyprus to combat trafficking in human beings, in particular the abolition of the 'cabaret artiste visa' and the introduction of a new action plan 2010 - 2012. At the same time, he called on the Cypriot authorities to remain vigilant against organised crime and ensure that no type of visa or working permit can be abused for such unlawful purposes as trafficking in human beings. The Commissioner also recommended that measures be taken to address the issue of demand for sexual services. He commended the government-run shelter for victims of trafficking and called on the Cypriot authorities to ensure that budgetary cuts planned to face the economic crisis will not affect the provision of adequate assistance to victims.

As regards the protection of the human rights of asylum seekers and refugees, the Commissioner expressed appreciation for improvements in asylum seekers' access to health care, the labour market and legal aid and called for the removal of any remaining administrative obstacles which might hamper the full enjoyment of these rights. The Commissioner expressed his concern at the long periods of

detention which some rejected asylum seekers face and urged the Cypriot authorities to ensure an individual examination of each case in order to assess the purpose and proportionality of detention.

### ***Visit to the Netherlands***

On 28 September, the Commissioner paid a visit to the Dutch Senate, in The Hague, where he delivered a speech before the Committee of Justice. He spoke about certain important developments in the field of human rights that have taken place in the Netherlands since the publication, on 11 March 2009, of the Commissioner's report following his visit to the country in 2008. The Commissioner subsequently engaged in a discussion with the members of the Senate on the human rights challenges currently faced by the Netherlands, as well as by other Council of Europe member states.

The Commissioner expressed his concern about the rising tendencies of racism and xenophobia in the Netherlands and other European countries. He noted that some European politicians resort to discriminatory rhetoric and shape their policies accordingly, and urged political leaders to oppose any xenophobic speech in public discourse. He also raised concerns about recent reports regarding the collection by some local authorities in the Netherlands of sensitive personal data on persons of Roma origin and the creation of special databases with comprehensive information about Roma people living in the municipality.

Noting the amendments to the asylum procedure, which entered into force on 1 July 2010, the Commissioner cautioned against the use of the accelerated asylum procedure for complex cases which require a scrupulous and extensive examination. He expressed concerns at the large numbers of asylum seekers, including vulnerable persons, being detained in the Netherlands, and recommended that rejected asylum seekers be provided with shelter until the outcome of the appeal procedure. The Commissioner commended the authorities for deciding to suspend the return of Somali asylum seekers to Greece, but expressed his concern about recent reports of forced returns of asylum seekers to Somalia and Iraq.

The Commissioner expressed the hope that the Dutch authorities would provide shelter to irregular migrant children who reside in the Netherlands, in line with the decision of the European Committee of Social Rights of 20 October 2009. He was concerned at the large number of unaccompanied minors being held in administrative detention and the significant number of children kept in pre-trial detention. As regards juvenile justice in particular, he recommended that the age of criminal law responsibility be increased in line with the majority of European states.

During his visit to the Netherlands, the Commissioner also met with the National Ombudsman, with whom he discussed recent developments in the country.

### ***Visit to Romania***

The Commissioner visited Romania (Bucharest and Barbulesti) between 12 and 14 October 2010 with the aim of assessing the human rights situation of Roma in the country. During the mission he met with a number of national authorities, including the Minister of Foreign Affairs, Mr Teodor Baconschi, the State Secretary at the Ministry for Labour, Family and Social Affairs, Mr Valentin Mocanu and the State Secretary at the Ministry for Administration and Interior, Mr Dan Fătuloiu. The Commissioner also met with non-governmental organisations and other representatives of civil society advocating Roma rights. In addition, the Commissioner also visited Roma communities in the municipality of Barbulesti and the Bucharest neighbourhood of Ferentari.

On 16 December, following up to his visit, the Commissioner published a letter addressed to the Prime Minister of Romania, Mr Emil Boc. In his letter, whilst welcoming the different measures undertaken by the authorities to improve the situation of Roma, the Commissioner expressed his concern about pervasive discrimination faced by Roma in various sectors. Noting the anti-Roma manifestations in the country, he urged the authorities to take swift action to fight racism and intolerance, and to ensure the effective enforcement of the existing anti-discrimination legislation.

As regards housing, the Commissioner was particularly concerned about reports of forced evictions of Roma families without the provision of adequate alternative shelter. He noted further that a great number of Roma live in communities segregated from the rest of the population, in houses which are overcrowded and frequently lack access to basic facilities.

Recognising the role of local administrations and non-governmental organisations in improving the situation of Roma, the Commissioner urged the government to undertake all possible measures to strengthen the capacity of municipalities to develop and implement community projects aimed at enhancing Roma inclusion.

As regards the high unemployment rate among Roma, the Commissioner called upon the authorities to prioritise the long-term integration of Roma into the labour market. The Commissioner also took note of the low school attendance figures and the high school dropout rate among Roma children, as well as the ineffective implementation of the anti-discrimination and anti-segregation rules in the educational system.

Finally, the Commissioner stressed the importance of teaching Roma history as a crucial tool in fostering understanding and tolerance among the majority population. He recommended in this respect the systematic use in schools of the Council of Europe's *Fact Sheets on Roma History*.

### ***Visit to Germany***

On 27 October the Commissioner visited Germany (Berlin) to inaugurate, together with the Foreign Minister, Mr Guido Westerwelle, and the Federal Minister of Justice, Ms Sabine Leutheusser-Schnarrenberger, an exhibition in the Ministry of Foreign Affairs celebrating the 60<sup>th</sup> anniversary of the European Convention on Human Rights. During the visit, the Commissioner met with national authorities, including the State Secretary of Justice, Mr Max Stadler, the State Secretary of the Interior, Mr Ole Schröder, and members of the Parliamentary Committee on Human Rights and Humanitarian Affairs including its Chair, Mr Tom Koenigs. The Commissioner also visited the German Human Rights Institute.

Discussing domestic anti-discrimination legislation and practice, the Commissioner encouraged the authorities to evaluate the existing federal and regional mechanisms dealing with anti-discrimination to get a better understanding of their effectiveness, and recommended the ratification by Germany of Protocol No. 12 to the European Convention on Human Rights. Moreover, the Commissioner shared his concern about the situation of Roma in Europe who continue to face discrimination and marginalisation throughout the continent.

In addition, the Commissioner held discussions on the issue of forced returns to Kosovo\*. He pointed out that many of the returnees, in particular Roma, Ashkali and Egyptian families and their children, continue to face discrimination, marginalisation and risks to their safety. The Commissioner also had an exchange with the authorities on the conduct of law enforcement officials and existing practice to deal with complaints of alleged police ill-treatment.

Following the visit, on 9 December, the Commissioner published his letter of 15 November, sent to the German Federal Minister of the Interior, Mr Thomas de Maizière. Following up on his dialogue with the German authorities during his visit to Berlin, the Commissioner wrote about the issue of forced returns to Kosovo\* and the conduct of law enforcement officials. He stressed that the infrastructure and resources available in Kosovo\* are not adequate for the sustainable return and integration of returnees. The Commissioner noted that many of them, in particular Roma, Ashkali and Egyptian families with children, have been severely affected, not least because of discrimination, marginalisation and fear for their safety. He added that he remains worried about the lead-contaminated camps of Osterode and Leposavic, in northern Mitrovica, where some returnees from western European countries, including Germany, have ended up.

### ***Visit to the Czech Republic***

The Commissioner visited the Czech Republic (Prague and Kladno) from 17 to 19 November to discuss issues relating to the fight against discrimination, racism and extremism and the protection of the human rights of Roma. During the visit, the Commissioner met with the Minister of the Interior, Mr Radek John, the Minister of Foreign Affairs, Mr Karel Schwarzenberg, the Deputy Minister of Justice, Mr Marek Ženišek, the Deputy Minister of Education, Mr Ladislav Němec and the Deputy Minister of Health, Mr Martin Plišek. He also met with the Deputy Ombudsperson, Mrs Jitka Seitlová and a number of civil society organisations, and visited Roma communities in two different localities in Kladno, near Prague.

As regards the fight against discrimination, racism and extremism, the Commissioner discussed the action taken by the Czech authorities against offences committed by members of extremist groups and the need to sustain and build upon efforts made in this field. He also discussed the legal and institutional framework in place to combat discrimination, racism and extremism and the need to keep the adequacy and effectiveness of this framework under review using the Council of Europe standards pertaining to this field.

As regards the protection of the human rights of Roma, the Commissioner discussed in particular the urgent need to make tangible progress in addressing discrimination and segregation of Roma children in education and secure the full execution of the relevant judgment of the Grand Chamber of the European Court of Human Rights in the case of *D.H. and Others*. He also discussed the need to ensure an effective official response, in particular by the criminal justice system, to all cases of violent hate crimes, which still have Roma as one of their main targets.

Furthermore, the Commissioner discussed the sterilisation of women, in particular of Roma origin, without their full and informed consent. He stressed the need to create avenues so that reparation, including compensation, is available to these women, in accordance with international law standards. Other areas covered by the Commissioner during his discussions included: combating anti-Gypsyism in public and political discourse, also in the media and on the Internet; addressing the segregation of Roma in localities excluded from mainstream society and substandard housing conditions affecting Roma; the placement of children in institutional care and the disproportionate representation of Roma children in these institutions.

A report following this visit will be published in 2011.

### ***Visit to Bosnia and Herzegovina***

The Commissioner visited Bosnia and Herzegovina (Sarajevo, Lukavica, Banja Luka and Brcko) from 27 November to 1 December to discuss issues relating to the fight against discrimination, the human rights of displaced persons and refugees and post-war justice. During the visit he met with the State and Entity authorities, including the member of the Presidency, Mr Bakir Izetbegovic, and the Chairman of the Council of Ministers, Mr Nikola Spiric. The Commissioner also held meetings with representatives of international and non-governmental organisations, national human rights structures and minority groups.

The Commissioner called on the authorities of Bosnia and Herzegovina to strengthen their efforts in order to eliminate discrimination towards members of national minorities by bringing the Constitution and the Election Law fully into line with the European Convention on Human Rights, in light of the European Court of Human Rights' judgment in the case of *Sejdic and Finci*. The Commissioner encouraged the authorities to step up their efforts to ensure the effective implementation of anti-discrimination legislation and to raise public awareness of this law.

With regard to a collective centre for displaced persons in Lukavica near Sarajevo that he visited, the Commissioner expressed his serious concern about its substandard living conditions. He stressed that it was not acceptable that more than seven thousand people, many of them elderly and in ill health, continued to live in 130 collective centres in Bosnia and Herzegovina, in conditions that could not be considered as human in today's Europe.

Noting with satisfaction the efforts made so far by the authorities to improve the situation of Roma, the Commissioner stressed the need for more systematic work to improve access of Roma to quality education and employment. The Commissioner stressed that return was not an option for the Roma who had been forcibly displaced from Kosovo\* and who have now lived for many years with their families in Bosnia and Herzegovina, and that they were still in need of international protection.

As regards post-war justice, during his meetings with the authorities the Commissioner underlined the need to effectively investigate and take action against all persons responsible for gross human rights violations and serious international humanitarian law violations. He stressed that women who have suffered from sexual violence during the war should have effective access to justice and reparation. In this regard, he underlined the need to reinforce the witness protection system and enable all witnesses to contribute in safety and dignity to post-war justice and reconciliation. The Commissioner also highlighted the need to continue with determination the efforts aimed at identifying the approximately 10 000 pending cases of missing persons.

Lastly, the Commissioner noted with satisfaction the interest showed during the meetings by leading politicians at State and Entity level in resolving the 220 pending cases concerning police officers barred from police service following a vetting process of the UN International Police task Force in the late 1990s.

A report following this visit will be published in 2011.

## **2 Thematic activities**

### **2.1 Introduction**

In 2010, non-discrimination, the human rights of migrants and refugees, the fight against racism and xenophobia, the rights of the child, and freedom of expression and the media were the main thematic concerns in the Commissioner's work. They were given particular attention during country visits and in the organisation of events, preparation of thematic documents, publication of View Points and Human Rights Comments, and the Commissioner's addresses to conferences. Roma and other national minorities, persons with disabilities, lesbian, gay, bisexual and transgender (LGBT) persons as well as migrants, including irregular migrants, received particular attention as victims of discrimination. Major research on the human rights situation of LGBT persons and Roma was undertaken with a view to reports being published in 2011. The central role independent equality bodies play in the promotion of equality was highlighted at a workshop organised by the Commissioner's Office in July.

### **2.2 National structures for promoting equality**

On 8-9 July, the Commissioner's Office organised an Expert workshop on "Effective and independent structures for promoting equality". The workshop explored the role of equality bodies and other national human rights structures in combating discrimination and promoting equality. It reviewed their structure, mandate, function, powers, resources and practices to gauge their effectiveness and independence. The equality bodies' outreach and accessibility among the public as well as their interaction with other human rights structures were highlighted. The central issue was to outline what is needed for them to carry out their unique role as independent statutory bodies defending and advancing standards of non-discrimination and equality. The workshop shared experiences from different countries and discussed good practices and challenges regarding the different models. The impact of the economic crisis on the work of equality bodies was also raised. The participants included representatives of equality bodies, national human rights institutions, ombudsmen, the European Network of Equality Bodies (Equinet), the European Group of National Human Rights Institutions, the European Commission against Racism and Intolerance (ECRI), national authorities, NGOs, international organisations and academic experts.<sup>1</sup>

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<sup>1</sup> The report of the workshop (CommDH(2010)43) is available at the Commissioner's website.

The independence enjoyed by the equality body was identified as a factor in the extent to which the equality body makes an impact. What independence looks like in practice was a focus for examination. Independence is about the equality body being able to determine its own priorities, to allocate its resources as it sees fit, to make decisions in relation to its own staff and to exercise all of its powers as and when it deems necessary. It is about how the organisation is structured vis-à-vis government. It is about the equality body articulating a critical voice – especially in times of crisis.

At an *internal* level independence was deemed to be about de facto independence which is visible in what is done by the equality body and how the equality body goes about its business. A key measure of independence is the extent to which the leadership of the equality body wants to be independent. The key internal challenge is to build a culture of independence within the equality body.

At an *external* level independence was identified as being linked to the way in which the equality body is structured, how its accountability is organised, and how its leadership is appointed. One barrier to independence was seen to lie in the structuring of the equality body as part of a government ministry. This does offer some independence from stakeholders other than government. However it creates a situation where de facto independence becomes difficult to practice. A stand-alone legal entity offers the best structure for independence from a de jure and de facto perspective.

Equality bodies have to be accountable. However it was demonstrated that the manner in which this accountability is organised can limit the independence of the equality body. There are examples where accountability is to a government department. This accountability can involve agreement on a broad direction of travel for the equality body, approval of corporate plans, and agreement on management statements and financial memoranda. Accountability can, in other examples, be structured to the national parliament. This might appear to offer more potential for independence, but in both cases examples of interference in independence were given. It is important to broaden accountability across a range of stakeholders and to break the funder/owner link that can be evident.

The leadership of an equality body was named as an important factor in its de facto independence. This raises the issues as to who appoints the senior management of the body and the Commissions that govern them, and as to how these appointments are made. Open, transparent and independent systems of appointment need to be, but are not, the norm.

The effectiveness of an equality body was also identified as a factor in the extent to which the equality body makes an impact. One key *internal* determinant of effectiveness was seen to lie in the ability of the equality body to be strategic. A strategic approach is planned on a multi-annual basis with indicators and targets through which to assess impact. It involves making use of all powers accorded to the equality body - both its powers to promote equality and to enforce the legislation. It involves identifying the best mix of these powers to be deployed in the particular context. It involves finding the best fit for the work of the equality body within the wider machinery in the jurisdiction playing a role in promoting equality and combating discrimination. A strategic approach is about the quality of decision making within the equality body, in particular the quality of decision making in the allocation of scarce resources.

Resources given to the equality body, the functions accorded to the equality body and the structure established for the equality body were identified as key *external* determinants of effectiveness. Inadequacy of resources was seen to be an issue for many equality bodies. This inadequacy can often reach a point where the equality body is unable to implement some of its powers or is unable to implement any of its powers to the critical mass sufficient to make an impact. There is a need to be able to answer the question as to what is a sufficient level of resources – there will always be limitations but what is enough for impact. The answer to this question will be country specific but will involve consideration of:

- population size and economic circumstances,
- value for money,
- the wider machinery in place to promote equality and combat discrimination,
- the resources required for the equality body to implement all of its functions,

- the resources required for the equality body to produce a critical mass of outputs sufficient to make an impact,
- the resources required for the equality body to operate strategically and to address the causes of discrimination.

The range of functions accorded to the equality body was seen to influence the potential for effectiveness, in that effectiveness requires the deployment of an integrated mix of core functions by the equality body. There were instances given where this range of functions is not available to the equality body. ECRI policy recommendations point to the need for a range of competencies for equality bodies including the provision of assistance to victims, investigative powers, initiation and participation in court proceedings, monitoring and advice on legislation, awareness raising and promotion of good practice. The functions of equality bodies need to cover the full spectrum of enforcement work, knowledge development work, awareness raising work and promotion of good practice work.

The structure of the equality body was seen as a determinant of effectiveness. Firstly, there are both multi-ground and single ground structures for promoting equality as regards the grounds of discrimination covered. An equality body with a single ground mandate, on the one hand, can develop significant expertise on that particular ground. An equality body with a multi-ground mandate, on the other hand, can promote an approach to equality without hierarchies, offer an administrative simplicity to employers and service providers and can address the situation of groups at the intersections between the grounds.

Furthermore, equality bodies can be stand-alone bodies or bodies embedded within another structure promoting human rights. Examples of embedding were given where ombudspersons or human rights institutions take on the role of equality body. There needs to be common ground between the bodies where an equality body is embedded within another structure. The determining factor is whether the embedding makes the fight against discrimination more effective and enables a prioritisation of equality issues. Often a merging of bodies can be a means of undermining their work. Duplication must be avoided but there were instances of good practice given in this regard where the bodies involved developed memoranda of understanding and shared planning practices. The combination or separation of quasi-judicial and promotional functions of equality bodies is yet another factor related to their structure and effectiveness.

As a follow-up to the workshop, the Commissioner will issue an Opinion on national structures for promoting equality in 2011. The Opinion will build on current international and European standards related to equality bodies and non-discrimination. It will provide advice to member states for setting up and developing national structures for promoting equality to ensure their independence and effectiveness.

### **2.3 *Human Rights of Roma and Travellers***

The protection of the human rights of Roma and Travellers was high on the Commissioner's agenda in 2010. In his address on the occasion of the Council of Europe's High Level Meeting on Roma in October, which reflected the priorities of his work in this field, the Commissioner underlined that if exclusion and marginalisation of Roma was to be tackled effectively, anti-Gypsyism had to stop. Crucial to this endeavour are responsible political discourse, of which 2010 saw far too few examples, and real efforts to promote knowledge of Roma history and culture. Further areas highlighted in the Commissioner's address included the need to tackle statelessness among Roma and to ensure Roma participation in the planning and management of all initiatives that concern them. In May, the Commissioner published a Position Paper on the human rights of Roma which presents a summary of the Commissioner's conclusions and recommendations in this field.

The use of stigmatising anti-Roma rhetoric in public and political discourse was an issue of serious concern throughout the year. However, the Commissioner's work in this field intensified in connection with the policy of repatriation of Roma from France to Romania and Bulgaria over the summer, and the ensuing debate in the political arena, the media and society at large. In the interviews, articles and statements he made on this topic, the Commissioner highlighted his concern that stigmatising speech

targeting Roma and Travellers tended to “legitimise” negative activities directed against these persons by extremist groups, including violent activities. As mentioned in his Human Rights Comment (“*Do not stigmatise Roma*”) of 15 September, instead of stigmatising Roma, notably through generalisations about criminality, the facts that push some members of the Roma communities toward crime should be tackled. The reasons behind Roma migration – abject poverty, discrimination across all areas of life, statelessness and a bitter history of repression – should also be recognised and addressed. The Commissioner reiterated these points in the speech he delivered at the Autumn session of the Parliamentary Assembly of the Council of Europe and in an article (“*History teaches us that anti-Roma rhetoric is playing with fire*”) published in *New Europe* on 19 September, in which he also called for wider use to be made of the Council of Europe fact sheets on Roma history.

Apart from its impact on public and political discourse, the issue of Roma migration and exercise of freedom of movement within the European Union (EU) poses a number of human rights challenges, which the Commissioner addressed in a Viewpoint (“*European migration policies discriminate against Roma people*”) he published on 22 February. The Viewpoint highlights in particular the difficulties Roma encounter in securing international protection. The Commissioner stresses that the money currently spent by European governments on returning Roma to places where they may be at risk of serious human rights violations could be better invested in measures to facilitate these persons’ social inclusion in the host society. Reflecting the need for a balanced debate on these questions which the events of the summer only helped to underscore, the Commissioner re-issued in October, together with the OSCE High Commissioner on National Minorities, Mr Knut Vollebaek, the study “Recent Migration of Roma in Europe” which had originally been published in 2009.

Forcible returns of Roma, Ashkali and Egyptians from Council of Europe member States to Kosovo\* continued to receive priority on the Commissioner’s agenda. The visit he carried out there on 11-13 February confirmed that Kosovo\* could not currently secure a sustainable and safe reintegration of these persons. Living conditions in the lead-contaminated camps in Northern Mitrovica, where many forcibly returned Roma end up, continue to be of particular concern, although one of the camps had been closed at year’s end. Throughout 2010, the Commissioner advocated a stop to all forcible returns of Roma, Ashkali and Egyptians to Kosovo, both in public fora and in his ongoing dialogue with individual governments, including those of Germany, Sweden, France, Bosnia and Herzegovina and “the former Yugoslav Republic of Macedonia”.

The issue of statelessness and lack of personal documents, which affects tens of thousands of Roma in Europe – and particularly the Western Balkans, featured prominently in the Commissioner’s work in 2010. In his intervention at the June Conference organised on this subject by the then Chairmanship of the Council of Europe in Skopje and in a Human Rights Comment (“*Stateless Roma: no documents – no rights*”) published on 14 August, the Commissioner emphasised that without personal documents, these persons were often denied basic rights such as education, healthcare, social assistance and the right to vote. The Commissioner appreciates the invaluable efforts made by UNHCR in this field. However, the primary responsibility to solve the problem lies with the governments, which should, *inter alia*, adopt action plans that include efforts to map out the situation of stateless Roma; simplify legislation and procedures regarding civil registration; provide free legal aid and waiving of fees, as necessary, for registration proceedings; and ratify and implement the relevant international instruments.

School segregation and substandard education continue to be a reality for Roma children in many European countries and leave virtually no opportunity for these children to escape poverty and marginalisation later on in life. The Commissioner devoted particular attention to this important problem in 2010. In a Human Rights Comment (“*Segregated schools marginalise Roma children – the decisions of the Strasbourg Court must be implemented*”) published on 20 May, he recalled that important judgments reaffirming the right of Roma children to non-discriminatory schooling have been rendered by the Strasbourg Court in recent years, notably concerning cases in the Czech Republic (*D.H. and Others*), Greece (*Sampanis and Others*) and Croatia (*Oršuš and Others*) and stressed the need for these judgments to be fully and effectively executed.

The protection of the human rights of Roma and Travellers was in focus in much of the Commissioner's country-monitoring work in 2010. In a report on Croatia published in June, the Commissioner called in particular for increased representation of Roma in political life, public administration and the judiciary, and improved education, housing and employment opportunities. He urged the authorities to take additional measures to facilitate Roma access to citizenship, especially for children, and free legal aid.

In his report on Bulgaria published in February, the Commissioner addressed the sub-standard conditions in segregated neighbourhoods in which many Roma continued to live. He urged the authorities to undertake concrete steps to ensure sustainable and healthy living conditions and improve Roma access to social rights, including health care and employment. Further areas covered in the report included the over representation of Roma among children who were placed in childcare institutions.

In a letter addressed to the Prime Minister of "the former Yugoslav Republic of Macedonia" in July, the Commissioner focused on the situation of approximately 1 500 Kosovar, most of whom are Roma, refugees in the country. The Commissioner stressed that the identification and effective implementation of durable solutions for these persons, many of whom have lived in the country for more than ten years and have children born and raised there, could no longer be postponed. The Commissioner emphasises that the best possible solution for Roma unable to return home in safety and dignity was local integration through a process which would ultimately lead to the acquisition of nationality.

In a letter addressed to the Prime Minister of Romania in November, the Commissioner stressed in particular the role of local administrations and non-governmental organisations in improving the situation of Roma and urged the Government to strengthen the capacity of municipalities to develop and implement community projects aimed at enhancing Roma inclusion.

In his dialogue with the Greek authorities following a visit, the Commissioner highlighted the need to combat anti-Gypsyism, the situation of Roma in the context of migration and freedom of movement within the EU, and the right to housing. In an exchange of letters with the Portuguese authorities, a specific focus was given to the substandard housing conditions of Roma communities.

Reports on the visits to the Czech Republic and Bosnia and Herzegovina which took place in November and December will be published in 2011. In the Czech Republic, the Commissioner discussed in particular the need to prevent the segregation of Roma children in education, address anti-Gypsyism and violent hate crimes, and compensate Roma women who had been sterilised without their full and informed consent. In Bosnia and Herzegovina, the Commissioner discussed the need for more systematic work to improve the access of Roma to quality education and employment. Furthermore, the Commissioner stressed that return was not an option for the Roma who had been forcibly displaced from Kosovo\* and who have now lived for many years with their families in Bosnia and Herzegovina.

## **2.4 Human rights of asylum-seekers and migrants**

The year 2010 witnessed a further tightening of migration policies in many Council of Europe member states, as well as the advance in several countries of political parties that have gained popular support for their openly xenophobic and anti-migrant rhetoric. The promotion of the human rights of migrants (asylum-seekers, refugees and immigrants) – one of the most vulnerable groups in society – remained a priority for the Commissioner.

The problem of criminalisation of migration was one of the issues that raised the Commissioner's concern. In February, the Issue Paper *Criminalisation of Migration in Europe: Human Rights Implications* was launched, in which the Commissioner observed that there is currently a trend to criminalise the irregular entry and presence of migrants in European states, and that the criminalisation of migration was a disproportionate measure which caused further stigmatisation and marginalisation of migrants.

The situation of irregular migrants in Europe was also the focus of two of the Commissioner's position papers, published in June, on the rights of migrants in an irregular situation and the rights of minor migrants in an irregular situation respectively. Taking note of the particularly vulnerable position of

irregular migrants, the position papers discuss the civil and political as well as economic and social rights irregular migrants enjoy under international law.

The protection of the human rights of migrant children was another area of concern for the Commissioner in 2010. In April, he published his first Human Rights Comment, in which he expressed concern about state practices of returning unaccompanied migrant children to countries of origin or transit, and denounced some countries' plans to establish reception facilities for returned children in third countries. In another Human Rights Comment, published in August, the Commissioner called upon states to respect the rights of children in asylum procedures, noting that the views of children are often not taken into consideration by asylum officers and that the authorities' main objective was usually to simply reunite them with their parents.

Access to a fair asylum procedure was, furthermore, the focus of the Commissioner's position paper on the right to seek and enjoy asylum, which was published in June. Reiterating that the right to apply for asylum in another country was a fundamental right recognised by international law, the Commissioner underlined that member states should ensure that all foreign nationals seeking asylum can benefit from a thorough, individual examination of their claim, and recalled some of the basic requirements which a just and efficient asylum system must fulfil.

In a Human Rights Comment published in September, the Commissioner called for a review of the 'Dublin Regulation', as it did not guarantee that asylum seekers had access to adequate asylum procedures in Europe, while the responsibility for the consideration of applications was not shared among EU member states. The Commissioner urged states to halt the transfer of asylum seekers to countries which experienced excessive migration pressures or faced particular difficulties in ensuring access to adequate asylum procedures.

The sanctions imposed on airlines and other transport companies by European states wishing to deter irregular migration were a further issue of concern to the Commissioner, and were discussed in a Human Rights Comment published in October. Such measures create entry barriers for people in need of international protection who are then more prone to resort to the services of smugglers. In practice, staff of transport companies – who lack the required expertise and competencies – have taken up the role of border control officers.

In 2010, the Commissioner continued to work closely with UNHCR. In a Human Rights Comment published in June 2010, the Commissioner urged European states to respect the advice given by UNHCR. Noting that several of UNCHR's recommendations had recently been ignored by member states, he called on governments to co-operate closely with the agency. Furthermore, in a Human Rights Comment published in November, devoted to the issue of the resettlement of refugees, the Commissioner urged member states to assist UNHCR in its work and increase their annual quotas for the reception of refugees.

The rights of migrants featured prominently in the Commissioner's country monitoring activities throughout the year, and were an issue reviewed during most of his missions. Following his visit to Greece in February, the Commissioner expressed his repeated concern at the continuing serious difficulties which asylum-seekers encountered in accessing the refugee status determination procedure, the excessive application of detention measures, and the lack of basic safeguards in the asylum procedure.

In a visit paid in May to Calais (France) and the surrounding area, the Commissioner assessed the human rights situation of migrants living in the area. He noted that the migrants lived in precarious conditions and were subjected to pressure from the police who strived to prevent the establishment of irregular camps of migrants in the Calais area. Following the visit, the Commissioner addressed a letter to the French Minister for Immigration, with whom he also met during the mission, in which he discussed the human rights situation of migrants in France. He was concerned in particular about the policy of fixing annual targets for the deportation of irregular migrants, as well as the detention of irregular migrants, and children in particular.

Having visited Turkey in May, the Commissioner commended the draft legislation aimed at bringing asylum law and practice into line with the case-law of the European Court of Human Rights, and welcomed the measures undertaken to ensure better access to and information on the asylum procedures, as well as the improvements concerning the detention of asylum seekers and their exemption from residence fees.

In a report published in June following a visit to Croatia, the Commissioner called for further improvements in the asylum procedure, in particular by ensuring free legal aid in first instance proceedings, allowing interviews in the accelerated procedures and creating a permanent reception centre for asylum seekers.

In a letter addressed to the Minister of the Interior of Cyprus, published in July, the Commissioner welcomed the measures undertaken by Cyprus to combat trafficking in human beings, and urged the authorities to take further action in this respect. He also welcomed the improvements in asylum seekers' access to health care, the labour market and legal aid, but expressed his concern at the long periods of detention to which certain rejected asylum seekers were subjected.

The human rights of asylum seekers were also the subject of the third party interventions submitted by the Commissioner to the European Court of Human Rights in March and May 2010.<sup>2</sup> These interventions followed an invitation by the Court and related to a group of cases concerning the return of asylum seekers from the Netherlands to Greece and to a case concerning the transfer of an Afghan asylum seeker from Belgium to Greece (*M.S.S. v. Belgium and Greece*), pursuant to the EU 'Dublin Regulation'. The Commissioner's written submissions were based on his visits to Greece in December 2008 and February 2010 as well as on continuous country monitoring.

On 1 September, the Commissioner intervened orally during the hearing before the Grand Chamber of the Court in the case of *M.S.S. v. Belgium and Greece*. In his first-ever oral intervention as a third party before the Court, the Commissioner provided his observations on major issues concerning refugee protection in Greece, including asylum procedures and human rights safeguards, as well as asylum seekers' reception and detention conditions. On this occasion, the Commissioner stressed that EU member states should halt all transfers of asylum seekers to Greece, as the asylum law and practice of the state were not in compliance with human rights standards, and persons sent back to Greece faced extremely harsh conditions.

## **2.5 Discrimination based on sexual orientation and gender identity**

Discrimination based on sexual orientation and gender identity remained a central concern in the Commissioner's work in 2010. The Commissioner published two Human Rights Comments related to the situation of lesbian, gay, bisexual and transgender persons (LGBT). In a Human Rights Comment on Pride events published on 2 June, the Commissioner raised his concerns regarding ongoing restrictions organisers of Gay Prides faced in a number of member states. The Commissioner reiterated that the rights to freedom of expression and peaceful assembly were fundamental for a democratic society and belonged to every person, not only the majority population. On 31 August, the Commissioner published a Human Rights Comment entitled 'Forced divorce and sterilisation – a reality for many transgender persons'. The Commissioner expressed his concern at legal provisions in many Council of Europe member states which require that transgender persons divorce and undergo sterilisation in order to exercise their right to have their preferred gender legally recognised. He called for expeditious and transparent procedures for changing the name and gender of a transgender person on official documents.

The Commissioner addressed the International Congress on Gender Identity and Human Rights, which took place in Barcelona from 4-6 June, through a video message. In the message, the Commissioner stressed that the human rights of transgender persons were a priority area for his Office. He also referred

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<sup>2</sup> The Commissioner's written submissions - CommDH(2010)9 and CommDH(2010)22 – are available on the Commissioner's website.

to the Issue Paper on Gender Identity and Human Rights which was published by the Commissioner in 2009.

The Issue Paper on Gender Identity remained an important reference document for several meetings in 2010. The Office of the Commissioner participated in an expert roundtable on strategic litigation of transgender rights before domestic courts and the European Court of Human Rights, organised by Interights in London on 26 and 27 March. The Issue Paper was also one of the guiding documents for discussions during an *Information session on Gender Identity and Transgender Issues* organised by the Directorate General for Employment, Social Affairs and Equal Opportunities of the European Commission in Brussels on 24 September. In addition, the Commissioner's Office participated in a Round Table organised by the European Network of Equality Bodies (Equinet) on 8 December in Brussels to discuss the usefulness of equality legislation for transgender persons. Equality bodies were encouraged to take up issues related to the human rights of transgender persons among their daily activities in accordance with the Issue Paper's recommendations.

In 2010, large-scale research was carried out for the preparation of the Commissioner's report on the situation concerning homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity in Council of Europe member states. Field visits by consultants were made to member states in view of collecting data and conducting interviews with representatives of public authorities, national human rights structures and NGOs. National country reports were prepared which form the basis of a comparative report on the subject matter for all 47 member states. This comprehensive report containing a socio-legal analysis of the situation of LGBT persons in all Council of Europe member states will be published in 2011. A presentation on the progress of the study was given to the 5th Roundtable of National Government Focal Points on LGBT Equality Mainstreaming Policies, which took place in The Hague on 27 October.

During some of his visits to member states, the Commissioner raised his concerns regarding the human rights situation of LGBT persons. Following his visit in October 2009 to Lithuania, the Commissioner published on 17 February two letters, addressed to the Prime Minister of Lithuania and the Speaker of the Seimas, regarding the adoption of legislative provisions which would contain unduly broad restrictions on speech and freedom of assembly in a discriminatory manner with reference to sexual orientation.

On 8 December, the Commissioner published a letter addressed to the Prime Minister of Montenegro calling for further improvements in the fight against discrimination towards LGBT persons. The Commissioner encouraged the authorities to raise awareness of the principles contained in the Law on Anti-Discrimination adopted in July by Montenegro, which also includes a ban on discrimination on grounds of sexual orientation and gender identity.

The Commissioner's Office participated on 30 September and 1 October in a Roundtable on Asylum-Seekers and Refugees Seeking Protection on Account of their Sexual Orientation and Gender Identity, organised by the Office of the United Nations High Commissioner for Refugees in Geneva. The roundtable discussion focused on the existing legal and policy frameworks with respect to the protection of lesbian, gay, bisexual, transgender and intersex (LGBTI) asylum-seekers and refugees.

## **2.6 Freedom of expression and the media**

The promotion and protection of freedom of expression and freedom of the media has been part of the Commissioner's work since he took up office. During country visits and continuous dialogue with national authorities, media professionals and civil society, the Commissioner gathers information, identifies shortcomings and provides advice on ways to ensure the enjoyment of freedom of expression and of the media.

In 2010, the safety of journalists continued to be one of his major concerns. The Commissioner has reminded governments that effective and independent investigations into the killings of and attacks against media professionals are vital to fight impunity. It is essential to identify, try and punish not only the actual attackers but also the masterminds who initiated the crimes. The Commissioner remains seriously

concerned about a number of cases where investigations appear not to produce any practical results, even after several years.

Following his visit to Azerbaijan in March, the Commissioner called upon the Azeri government to step up their efforts to protect freedom of expression. In particular, the Commissioner highlighted his recommendation to decriminalise defamation and to ensure that there is no selective application of criminal law provisions against journalists or other persons due to the views or opinions they express. He also took note of the concerns voiced by various interlocutors regarding legislative amendments that could further restrict the work of mass media and could hinder journalists' freedom to gather and disseminate information. The Commissioner urged the authorities to fully comply with the judgment of the European Court of Human Rights concerning the imprisoned journalist Eynulla Fatullayev (*Fatullayev v. Azerbaijan*) and secure his immediate release.

In December, the Commissioner visited the Russian Federation where he held talks with authorities on a number of human rights matters including media freedom. Against the background of several attacks against journalists shortly before his visit, the Commissioner met with representatives of the Russian Union of Journalists and the editor-in-chief of the newspaper *Kommersant*. The Commissioner recalled the need to conduct effective and independent investigations to bring the perpetrators to justice, ensuring that media professionals can report freely and independently without fear for their lives and physical integrity.

In May, the Commissioner published a Position Paper on media freedom providing a summary of his conclusions and recommendations on the topic. In the paper, the Commissioner calls for clear legislation which promotes pluralistic media and transparent media ownership as well as editorial independence. Independent regulatory mechanisms to maintain professional standards are also essential. Moreover, the Commissioner stresses the need to decriminalise defamation. In fact, the sole existence of defamation laws is sufficient to intimidate and cause self-censorship, including in circumstances where such laws are not applied.

The Commissioner published a Human Rights Comment about the changing media landscape in Europe in May. Economic pressures along with technological changes have led to concentrated ownership of media and less money and staff for investigative journalism. This coincides with an extraordinary amount of undigested information on the internet and less thorough news coverage. In this context, the Commissioner highlighted the need for pluralism of information and the essential role of journalists who can collect information and analyse a complex world. He also stressed that authorities had to protect journalists from harassment, threats and attempts on their lives.

In September, the Commissioner published a Human Rights Comment about the right to information. The Commissioner pointed out that access to state-held information was essential for ensuring that elected officials were held accountable by their voters. Although there are situations where the confidentiality of information can be justified, the misuse of this argument must be avoided. Referring to Council of Europe standards, the Commissioner concluded that the transparency of public authorities should be regarded as an important element of freedom of information - with a bearing on freedom of expression as guaranteed by Article 10 of the European Convention on Human Rights. The Commissioner called upon member states to ratify the Council of Europe Convention on Access to Official Documents and to regulate properly the right of access to information drawing on Council of Europe standards and best practice in member states.

During 2010, the Commissioner's Office maintained contacts with media professionals and international organisations working in this field. In May, the Office attended the World Congress of the International Federation of Journalists held in Cádiz, Spain. In July, the Office held talks in Vienna with the staff from the OSCE Representative on Freedom of the Media and the EU Fundamental Rights Agency as well as with the Secretary General of the South Eastern Europe Media Organisation. In October, the Office participated in the media freedom discussions held at the OSCE Review Conference in Warsaw.

## **3 Human Rights Defenders**

### **3.1 Country monitoring**

In 2010, the Commissioner addressed the situation of human rights defenders and their work environment in several instances, including in the fields of freedom of expression, freedom of peaceful assembly, freedom of association, and the security and protection of human rights defenders.

In relation to his visit to Azerbaijan in March, the Commissioner highlighted his continuing concerns about cases of threats, harassment, and violence against journalists or human rights activists which have not been properly investigated. The Commissioner acknowledged the willingness of the authorities to take steps to facilitate the registration of NGOs, but was concerned about recent legislative changes which could limit freedom of association.

During his visits to the Russian Federation in January and December, the Commissioner stressed the importance of effective investigations into crimes against human rights defenders in the difficult context prevailing in the North Caucasus. In July, the Commissioner published a Human Rights Comment to commemorate the first anniversary of the murder of Natalia Estemirova, a leading member of the NGO Memorial, who worked with great courage and personal dedication for the protection of human rights in the Chechen Republic. The Commissioner stressed the need to bring to justice those who had committed and ordered this killing which provoked widespread condemnation and raised serious concerns about the viability and safety of the work of human rights NGOs in the North Caucasus.

### **3.2 Round Table on Human Rights Defenders in South East Europe**

The Commissioner's Office organised a Round Table on Human Rights Defenders in South East Europe on 1 and 2 December 2010 in Sarajevo, Bosnia and Herzegovina. The countries concerned, some of which have been going through post-communism and post-conflict transition, often share similar patterns in terms of human rights activism. The Round Table brought together representatives of international organisations (UN, OSCE and EU) and international non-governmental organisations as well as national human rights defenders, including members of human rights NGOs, journalists, lawyers and independent experts from Bosnia and Herzegovina, Bulgaria, Croatia, Greece, "the former Yugoslav Republic of Macedonia", Montenegro, Romania, Slovenia, Serbia and Turkey.

The event, which was chaired by the Commissioner, provided an opportunity to exchange information on the situation of human rights defenders and their working environment. Specific themes discussed included: challenges to freedom of expression and ways to overcome them; the security of human rights defenders and avenues to improve the efficiency of protection strategies; and the participation of human rights defenders in decision-making processes.

In South East Europe human rights defenders expressing opinions which are not in line with predominant or "mainstream" views have in certain cases faced pressure, threats and attacks. This can contribute to a hostile environment for the work of defenders and in particular for those working on sensitive issues such as transitional justice, war crimes, the protection of national and sexual minorities, or corruption. Attacks and pressure following statements and articles by human rights defenders have come from state and non-state actors, such as political or religious leaders, parliamentarians, or from the media. Cases of harassment campaigns in the media, intended to undermine the image and credibility of human rights defenders - and even human rights activism in general - have been reported in South East Europe.

Participants discussed several ways of addressing the problems identified: fully decriminalising defamation and libel; establishing self-regulatory mechanisms for the media; training and raising awareness among media professionals about human rights issues; increasing pluralism and diversity in the media; enhancing communication strategies *vis-à-vis* the media and the public.

Several reports refer to cases of serious physical and psychological attacks against human rights activists working on sensitive issues in South East Europe. Women defenders are a particularly vulnerable group in some countries. Such threats can target not only human rights activists but also their relatives. Threats and attacks on physical integrity can take the form of deprivation of liberty or – at worst - fatal assaults. In many cases, perpetrators have not been identified or remain unpunished for the crimes committed.

Protection mechanisms at regional and international levels include monitoring visits, the consideration of individual complaints as well as early warning and urgent protection measures. The effectiveness of these protection strategies and mechanisms needs to be strengthened. The existence of a national legal framework in compliance with international human rights standards is a basic requirement for the effective protection of human rights defenders. However, participants in the Roundtable were of the view that existing national legislation and bodies related to human rights protection were rarely used to protect and support the work of human rights defenders. Participants also discussed the possibility of forming a regional network of human rights defenders for South East Europe following the example of the South Caucasus Network of Human Rights Defenders.

Effective access to the European Court of Human Rights should be guaranteed. Under Article 34 of the Convention, any person, NGO or group of individuals claiming to be the victim of a violation of the rights set forth in the Convention can submit an application to the Court for a decision on whether their claims constitute a violation of human rights. Moreover, member states should not hinder in any way the effective exercise of the right to individual application.

In its Resolution of 25 March 2010 on the Protection of Human Rights Defenders, the United Nations Human Rights Council encouraged states to create and strengthen mechanisms for consultation and dialogue with human rights defenders. There is a need to ensure the free and unimpeded participation of human rights defenders in public affairs, not only in the field of NGO law, but also in all fields in which they have a stake. The participation of civil society is a basic democratic principle of good governance. The Conference of INGOs Code of Good Practice on Civil Participation in the Decision-Making Process is a good tool to promote co-operation between civil society organisations and public authorities.

However, in many countries of South East Europe, civil society actors and human rights defenders claim that they are excluded from or have very limited impact on policy-making and the process of drafting legislation. For example, non-governmental organisations and defenders are sometimes not consulted at all on draft legislation concerning human rights or their work (i.e. laws on non-governmental organisations). When many NGOs and human rights defenders undertake careful analyses of draft legislation and policies and submit recommendations, these recommendations are often not discussed seriously or taken into account. Several civil society actors have also noted the somewhat limited effectiveness of formal bodies established for the co-operation between authorities and civil society. Nevertheless, some good practices do exist, and public authorities have in certain cases duly considered the valuable input from civil society, for example when drafting anti-discrimination legislation or advocating in favour of the decriminalisation of defamation.

### **3.3 *Participation in events***

On 10-12 February, the Commissioner's Office participated in the 5th Dublin Platform for Human Rights Defenders which was organised by the NGO Front Line to review and analyse the current situation and problems faced by human rights defenders. The Platform discussed in particular the possibilities for strengthening the interaction and co-operation between different protection mechanisms and programmes.

On 20-21 March, the Office participated in the regional workshop on strategic litigation for Human Rights Defenders organised by the Ukrainian "Legal Analysis and Strategies Institute" in Kyiv, Ukraine. The meeting brought together leaders of the key human rights structures from Russia, Ukraine, Moldova, Belarus, Georgia, Azerbaijan, Armenia and Central Asian countries to enhance co-operation among them

and with European protection mechanisms, including the Council of Europe, the European Court of Human Rights and the Commissioner for Human Rights.

The Office took part in an International conference on human rights organised by the Human Rights House network in Vilnius on 24 and 25 September. The conference discussed concrete mechanisms for protecting human rights activists and means of raising awareness of the importance of their activities.

On 8 and 9 December, the Commissioner's Office participated in the third "inter-mechanisms" meeting organised by the Observatory for the protection of human rights defenders and hosted by the OSCE/ODIHR in Warsaw. On this occasion, international and regional mechanisms and programmes on the protection of human rights defenders within the United Nations, the African Commission for Human Rights and Peoples' Rights, the Council of Europe, the European Union, the Inter-American Commission on Human Rights, ODIHR joined by the International Organisation of La Francophonie, shared their respective experiences and explored ways to enhance their co-operation.

### **3.4 Sakharov project**

In 2010, the exhibition "Andrei D. Sakharov: Alarm and Hope", produced by the Sakharov Public Centre and by the Human Rights Association Memorial with the support of the Commissioner was launched in the Council of Europe in January. In April, a letter from the Commissioner was sent to all the Permanent Representatives informing them about the possibility of hosting the itinerant exhibition "Andrei D. Sakharov: Alarm and Hope" in their own countries. The exhibition was displayed in the following countries in the course of the year: Sweden, Finland, France, Estonia, Lithuania, Slovakia, Bosnia and Herzegovina and Latvia. On these occasions, Council of Europe officials, State authorities and representatives of civil society as well as human rights defenders, in particular youth groups, were able to reflect on Andrei Sakharov's human rights messages. The exhibition will continue to be displayed in countries of the Council of Europe in 2011.

On 15 December, the Commissioner published the book "*Andrei Sakharov and human rights*" at a launching event in the European Parliament in Strasbourg. The book contains selected Sakharov writings which have a deeper significance for human rights and the fight for a peaceful and just world. The presentation speech made in Oslo in December 1975, when Sakharov received the Nobel Peace Prize, forms the introduction both to Sakharov and to the publication. Subsequent sections draw from Sakharov's writings and cast light on his vision, ideas and actions to defend human rights. The publication ends with tributes to Sakharov. A Russian version of the book will be published in 2011.

## **4 External relations**

The Commissioner for Human Rights continued to consult and co-operate with his main international partners throughout 2010. This co-operation took the form of bilateral meetings, informal contacts and exchanges of information as well as joint initiatives. The protection of human rights activists was a theme requiring multilateral co-operation with several international partners including the European Commission, OSCE/ODIHR and the Office of the UN High Commissioner for Human Rights (see above under 3.2).

### **4.1 European Union**

During 2010, the Commissioner pursued his regular meetings with members of the European Commission with duties related to human rights. In March and June, he met with the Commissioner for Home Affairs, Cecilia Malmström. They discussed the situation of asylum seekers and the EU asylum policy with particular reference to unaccompanied minors and, more broadly, the implementation of the EU Stockholm Programme on freedom, security and justice. In April and September, the Commissioner held talks with the EU Commission Vice President for Justice, Fundamental Rights and Citizenship, Viviane Reding. The discussions with Vice-President Reding focused on the situation of Roma, children's rights and the protection of privacy in counter-terrorism measures.

In April and December, Commissioner Hammarberg met with the Commissioner for Enlargement and Neighbourhood Policy, Mr Štefan Füle. The EU's Neighbourhood Policy and Eastern Partnership with particular reference to Armenia, Azerbaijan, Croatia, Georgia and Turkey were raised with Mr Füle. In December, Commissioner Hammarberg held talks with the Commissioner for Employment, Social Affairs and Inclusion, Mr László Andor. Discussions with Mr Andor focused on the situation of Roma and the Commission initiative "European Platform against Poverty and Social Exclusion". Information on the results of the Commissioner's country monitoring was also exchanged with relevant Commission services during the year.

The Commissioner held several meetings in 2010 with Ms Heidi Hautala, Chair of the European Parliament's Subcommittee on Human Rights. Issues related to the protection of human rights defenders were a special focus of the talks. Following his visit to Kosovo\*, the Commissioner received a group of Members of the European Parliament in March to exchange views on forced returns to Kosovo\* and the human rights of Roma in Europe. In December, the Commissioner opened an exhibition "Andrei D. Sakharov: Alarm and Hope" in the European Parliament in Strasbourg. The Commissioner maintained regular contacts in Strasbourg with the European Ombudsman Mr Nikiforos Diamandouros.

The working relationship with the European Agency for Fundamental Rights (FRA) was further developed in 2010. In November, the Commissioner met with Ms Ilze Brands Kehris, Chairperson of the FRA Management Board, and the FRA Director Mr Morten Kjaerum. The discussions focused on the situation of Roma, migrants and asylum seekers. The Commissioner's Office provided expertise for the FRA project on joined-up governance with a particular focus on implementing human rights at the local level. Information and data on the human rights situation of lesbian, gay, bisexual and transgender persons (LGBT) were exchanged frequently in the context of the Commissioner's Europe-wide study on discrimination on grounds of sexual orientation and gender identity. The Commissioner's Office participated in the Fundamental Rights Conference on children's rights organised by the FRA and the Belgian EU presidency in December.

## **4.2 OSCE**

In 2010, co-operation with the OSCE focused on the situation of national minorities and Roma in particular. In September, the OSCE High Commissioner on National Minorities, Knut Vollebaek, and the Commissioner reissued a study on recent migration of Roma in Europe. The study provides an analysis of the existing human rights standards concerning migration in Europe and highlights discriminatory practices that Roma migrants still face. The Commissioner also liaised with OSCE field missions during his country visits.

The OSCE/ODIHR and the Commissioner's Office exchanged information regularly on the situation of human rights defenders and the incidence of hate crimes in Europe. Information was also exchanged with the Office of the OSCE Representative on Freedom of the Media. In October, the Commissioner's Office participated in the Human Dimension Sessions of the OSCE Review Conference in Warsaw.

## **4.3 United Nations**

The co-operation and co-ordination with the UN system is particularly developed with the OHCHR, UNHCR and UNICEF. These working relationships are triggered and based on mutual interests, exchanges of information and experiences as well as the wish to reinforce each other's activities to promote respect for human rights and avoid overlaps.

In February, the Commissioner had a meeting with the UNICEF Regional Director Mr Steven Allen. The discussions centred on juvenile justice systems across Europe and the protection needs of migrant and Roma children. The Commissioner also addressed the UNHCR Europe Bureau Representatives Meeting in Geneva on the UNHCR's role in protecting human rights in the wider Europe in February.

The Commissioner maintained regular contacts with UN special rapporteurs in the course of country and thematic monitoring and met with UNHCR and OHCHR field representatives during his country visits. The

Commissioner's country reports were made available to the Universal Periodic Review conducted by the Human Rights Council and were repeatedly referred to in the outcome documents.

Frequent meetings took place between the Commissioner's Office and the respective organisations at technical level. In September-October, the Office participated in a Roundtable on Asylum-Seekers and Refugees Seeking Protection on Account of Their Sexual Orientation and Gender Identity organised by the Office of the UNHCR in Geneva. In October, the Office participated in the 4<sup>th</sup> Coordination meeting between the Council of Europe and the OHCHR in Geneva. Among the themes where close collaboration evolved during 2010 with the OHCHR were human rights in crisis and conflict situations, the protection of human rights activists, the situation of internally displaced persons and the rights of persons with disabilities.

## **5 Co-operation with national human rights structures**

National human rights structures (NHRs – e.g. ombudsman institutions, human rights commissions and equality bodies) are the Commissioner's privileged partners in his human rights dialogue with member states as laid out in the Commissioner's mandate. In 2010, the Commissioner continued to meet with NHRs virtually every time he visited a particular country, and consulted with them closely about human rights issues and the best way to address problems. Several bilateral meetings were also held in Strasbourg. Information from NHRs was used in the preparation of country visits.

The Commissioner and his Office engaged actively with existing European and international networks of NHRs, as well as with other international organisations dealing with NHRs. In September, the Commissioner addressed a written message to the International Ombudsman's Conference, organised by the Office of the Public Defender of Georgia, on "the role and influence of the Ombudsman's institution on the improvement of the condition of human rights protection", which took place on 23 and 24 September in Tbilisi. The Commissioner also transmitted a message to the participants of the Round Table with the Ombudsmen of the Russian Federation (28-29 September 2010, Pushkin/St. Petersburg), referring to the specific ways in which the federal and regional Ombudsmen could exercise their role with a view to preventing human rights violations.

On 4 October, the Commissioner participated in the European Chapter Conference of the International Ombudsman Institute in Barcelona. On 8 October, the Commissioner addressed the annual meeting of the European Network of Ombudsmen for Children (ENOC) in Strasbourg with a speech on "the value of listening to children". In addition, the Commissioner's Office took part in a meeting of the European Group of National Human Rights Institutions in Geneva during the 23<sup>rd</sup> session of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights on 23 March.

Several equality bodies, national human rights institutions, ombudsmen and their European networks also participated in the Commissioner's Expert workshop on "Effective and independent structures for promoting equality" which took place in Strasbourg on 8-9 July (see 2.2 above).

## **6 Summary of activities**

### **6.1 Introduction**

The main objectives of the Commissioner's work are, in line with his mandate, to:

- foster the effective observance and enjoyment of human rights;
- assist member states in the implementation of Council of Europe human rights standards;
- identify possible shortcomings in the law and practice concerning human rights;
- promote education in and awareness of human rights in member states;
- facilitate the activities of national ombudspersons and other human rights structures;

- provide advice and information regarding the protection of human rights; and
- protect and support human rights defenders.

The Commissioner's activities focus on three major, clearly-related areas: country visits and dialogue with national authorities and civil society; thematic reporting and advising on human rights systematic implementation; and awareness-raising activities.

As part of his country visits, thematic work and awareness raising activities, the Commissioner pays specific attention to the defence of human rights activities and engages in close co-operation with other Council of Europe bodies and with a broad range of international institutions, most importantly the United Nations and its specified offices, the European Union and the Organisation for Security and Cooperation in Europe. The Office also co-operated closely with national human rights structures and leading human rights NGOs.

The present report of activities covers the calendar year 2010. During the year, the Commissioner also issued four quarterly activity reports on his activities which covered the same subjects as well as more general observations.<sup>3</sup> The quarterly reports are available on the Commissioner's website.

## **6.2 Field visits and reports**

In 2010 the following country visits were carried out:

20 to 21 January	Russian Federation
8 to 10 February	Greece
11 to 13 February	Kosovo*
26 to 28 February	Georgia
1 to 5 March	Azerbaijan
6 to 9 April	Croatia
30 April to 4 May	Georgia
19 May	France
23 to 26 May	Turkey
9 to 12 June	Cyprus
28 September	The Netherlands
12 to 14 October	Romania
27 October	Germany
28 to 31 October	Turkey
17 to 19 November	Czech Republic
27 November to 1 December	Bosnia and Herzegovina
10 to 14 December	Russian Federation

In 2010, the following reports and letters related to visits were published:

### *Bulgaria*

- Report by the CoE Commissioner for Human Rights following his visit to Bulgaria from 3 to 5 November 2009. Issues reviewed: Human rights of minorities and of children in institutions (published 9 February 2010 with reference CommDH(2010)1).
- Letter from the CoE Commissioner for Human Rights to Mr Boyko Borisov, Prime Minister of Bulgaria (dated 7 October 2010 and published 4 November 2010 with reference CommDH(2010)47).

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<sup>3</sup> CommDH(2010)11, CommDH(2010)34, CommDH(2010)44 and CommDH(2011)1

*Lithuania*

- Letter from the CoE Commissioner for Human Rights to Mr Andrius Kubilius, Prime Minister of Lithuania, following their meeting in October 2009 (dated 9 December 2009 and published on 17 February 2010 with reference CommDH(2010)4).
- Letter from the CoE Commissioner for Human Rights to Ms Irena Degutienė, Speaker of the Seimas, Lithuania, following their meeting in October 2009 (dated 9 December 2009 and published on 17 February 2010 with reference CommDH(2010)6).

*Portugal*

- Letter from the CoE Commissioner for Human Rights to Mr José Magalhães, Secretary of State for Justice and Modernisation of the Judiciary of Portugal, following their meeting in November 2009 (dated 24 November 2009 and published 15 March 2010 with reference CommDH(2010)10).

*Greece*

- Letter from the CoE Commissioner for Human Rights to Mr Mihalis Chrysochoidis, Minister for Citizen Protection of Greece, following their meeting in February 2010 (letter dated 8 March 2010 and published on 13 April 2010 with reference CommDH(2010)13).
- Letter from the CoE Commissioner for Human Rights to Mr Haris Kastanidis, Minister of Justice, Transparency and Human Rights of Greece, following their meeting in February 2010 (letter dated 8 March 2010 and published on 13 April 2010 with reference CommDH(2010)14).
- Letter from the CoE Commissioner for Human Rights to Ms Theodora Tzakri, Deputy Minister of Interior, Decentralization and e-Governance of Greece, following their meeting in February 2010 (letter dated 8 March and published on 13 April with reference CommDH(2010)15).

*Croatia*

- Report by the CoE Commissioner for Human Rights following his visit to Croatia from 6 to 9 April 2010. Issues reviewed: Human rights of displaced persons and asylum seekers, proceedings relating to post-war justice and human rights of Roma (published 17 June 2010 with reference CommDH(2010)20).

*Azerbaijan*

- Report by CoE Commissioner for Human Rights following his visit to Azerbaijan from 1 to 5 March 2010. Issues reviewed: Freedom of expression; freedom of association; conduct of law enforcement officials; administration of justice; observations on the visit to the Autonomous Republic of Nakhchivan (published on 29 June 2010 with reference CommDH(2010)21).

*Italy*

- Letters from the CoE Commissioner for Human Rights to Mr Roberto Maroni, Minister of Interior of and to Mr Franco Frattini, Minister of Foreign Affairs of Italy (both dated 2 July 2010 and published on 6 July 2010 with references CommDH(2010)23 and CommDH(2010)24 respectively).

*Turkey*

- Letter from the CoE Commissioner for Human Rights to Mr Sadullah Ergin, Minister of Justice of the Republic of Turkey (dated 8 June 2010 and published 8 July 2010 with reference CommDH(2010)25).
- Letter from the CoE Commissioner for Human Rights to Mr Beşir Atalay, Minister of Interior of the Republic of Turkey (dated 8 June 2010 and published 8 July 2010 with reference CommDH(2010)26).

### *Cyprus*

- Letter from the CoE Commissioner for Human Rights to Mr Neoklis Sylikiotis, Minister of Interior of the Republic of Cyprus (dated 29 June 2010 and published 26 July 2010 with reference CommDH(2010)32).

### *“the former Yugoslav Republic of Macedonia”*

- Letter from the CoE Commissioner for Human Rights to Mr Nikola Gruevski, Prime Minister of "the former Yugoslav Republic of Macedonia" (date 28 July 2010 and published 7 September 2010 with reference CommDH(2010)36).

### *France*

- Letter from the CoE Commissioner for Human Rights to Mr Eric Besson, Minister for Immigration, Integration, National Identity and Development Solidarity of France (dated 3 August and published 21 September 2010 with reference CommDH(2010)38).
- Letter from the CoE Commissioner for Human Rights to Mr Brice Hortefeux, Minister of the Interior, Overseas France and Local Authorities of France (dated 8 October 2010 and published 2 November 2010 with reference CommDH(2010)45).

### *Georgia*

- Monitoring of Investigations into cases of missing persons during and after the August 2008 armed conflict in Georgia (published 29 September 2010 with reference CommDH(2010)35).
- Report on human rights issues following the August 2008 armed conflict in Georgia, by CoE Commissioner for Human Rights (published 7 October 2010 with reference CommDH(2010)40).

### *Germany*

- Letter from the CoE Commissioner for Human Rights to Dr Thomas De Maizière, German Federal Minister of the Interior (dated 15 November 2010 and published 09 December 2010 with reference CommDH(2010)52).

### *Montenegro*

- Letter from the CoE Commissioner for Human Rights to Mr Milo Djukanovic, Prime Minister of Montenegro (dated 9 November 2010 and published 8 December 2010 with reference CommDH(2010)50).

### *Romania*

- Letter from the CoE Commissioner for Human Rights to Mr Emil Boc, Prime Minister of Romania (dated 17 November 2010 and published 16 December 2010 with reference CommDH(2010)53).

## **6.3 Thematic work and awareness raising**

### *Thematic documents*

The Commissioner publishes Viewpoints, Human Rights Comments, Statements, Issue Papers, Position Papers, Reports, Opinions and Recommendations on human rights themes to raise awareness and give advice to member states on the protection of human rights.

In February the Commissioner published an Issue Paper entitled: Criminalisation of Migration in Europe: Human Rights Implications. This Issue Paper builds upon these concerns and systematically examines the human rights implications of the criminalisation of migration in Europe. It analyses external border crossing, migrants' residence and protection of their social rights including employment, as well as asylum and detention. It concludes with a number of recommendations to Council of Europe member states, as a

starting point to ensure the correct intersection of human rights standards and the treatment of foreign nationals.<sup>4</sup>

In May, June and July, the Commissioner released seven Position Papers which provide a summary of the Commissioner's findings and recommendations based on country monitoring, thematic reports, Issue Papers, Recommendations, Opinions and Viewpoints on selected human rights themes. The issues covered by these Position Papers include:

- children's rights (CommDH/PositionPaper(2010)1)
- freedom of the media (CommDH/PositionPaper(2010)2)
- human rights of Roma (CommDH/PositionPaper(2010)3)
- right to seek and enjoy asylum (CommDH/PositionPaper(2010)4)
- rights of migrants in an irregular situation (CommDH/PositionPaper(2010)5)
- rights of minor migrants in an irregular situation (CommDH/PositionPaper(2010)6)
- human rights of persons with disabilities (CommDH/PositionPaper(2010)7).

On 9 September, the Commissioner issued a statement in which he recalled that politicians should be very careful about using language which can promote further prejudice against Roma communities. The Commissioner stressed that Roma from other EU countries had been targeted as a "threat against public security" and no clear distinction was being made between the few who had committed crimes and the whole group of Roma immigrants. The Commissioner underlined that this is particularly dangerous as extremist political groups are ready to exploit existing anti-Gypsyism and distorted minds may understand the political messages as an encouragement for action.

In October, the Commissioner and the OSCE High Commissioner on National Minorities published a revised version of the study on recent migration of Roma in Europe.<sup>5</sup> The re-publication, which includes a joint preface by Commissioner Hammarberg and High Commissioner Vollebaek and a new executive summary, responds to a continuing need in Europe for a constructive approach to Roma migration. The study provides an analysis of the existing human rights standards concerning migration in Europe and highlights discriminatory practices that Roma migrants still face. It concludes with a set of recommendations for action by member states in order to enhance the effective protection of the human rights of Roma migrants in Europe.

Commissioner Hammarberg continued with the fortnightly publication of Viewpoints, published on his website in English, French and Russian until March 2010. The following topical human rights concerns were addressed in the Viewpoints:

- "Impunity for rape of women has to be stopped" (11 January)
- "Language rights of national minorities must be respected – their denial undermines human rights and causes inter-communal tensions" (25 January)
- "The Strasbourg Court is a source of hope for many – its continued effective functioning must be guaranteed" (8 February)
- "European migration policies discriminate against Roma people" (22 February)
- "Rulings anywhere that women must wear the burqa should be condemned - but banning such dresses here would be wrong" (8 March)
- "Atrocities in the past must be recognised, documented and learned from - but not distorted or misused for political purposes" (22 March).

In April, Commissioner Hammarberg released his collection of Viewpoints written during his fourth year in office, entitled *Human Rights in Europe: growing gaps*. The book is available free of charge in English, French and Russian.

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<sup>4</sup> CommDH/IssuePaper(2010)1

<sup>5</sup> The first version was published in 2009 with reference CommDH(2009)37.

Since April 2010, Commissioner Hammarberg has published frequent “Human Rights Comments” on his website in English, French and Russian. In 2010, the following topical human rights concerns were addressed in the Human Rights Comments:

- *Children coming alone as migrants should not be automatically returned* (20 April)
- *Time to give smacking a beating – children deserve total ban against adults hitting them* (28 April)
- *Changing media landscape creates crisis of journalism in Europe* (3 May)
- *Adoption should only be agreed when in the child’s best interests* (12 May)
- *Segregated schools marginalise Roma children – the decisions of the Strasbourg Court must be implemented* (20 May)
- *Pride events are still hindered – this violates freedom of assembly* (2 June)
- *Torture allegations must be properly investigated* (9 June)
- *European states should respect advice by UNHCR* (16 June)
- *European states must respect Strasbourg Court’s orders to halt deportations* (25 June)
- *Children victimised when families are forced to return to Kosovo\** (09 July)
- *Those responsible for the death of Natalia Estemirova must be brought to justice* (13 July)
- *Landmines still kill in Europe: time for an absolute ban* (26 July)
- *Elderly across Europe live in extreme hardship and poverty* (5 August)
- *Stateless Roma: no documents – no rights* (17 August)
- *Refugee children should have a genuine chance to seek asylum* (24 August)
- *Forced divorce and sterilisation – a reality for many transgender persons* (31 August)
- *Do not stigmatise Roma* (15 September)
- *The ‘Dublin Regulation’ undermines refugee rights* (22 September)
- *The public has the right to know what those they elected are doing* (27 September)
- *Airlines are not immigration authorities* (12 October)
- *Inhuman treatment of persons with disabilities in institutions* (21 October)
- *Freedom to demonstrate is a human right – even when the message is critical* (26 October)
- *European Muslims are stigmatised by populist rhetoric* (28 October)
- *Europe should accept more refugees in need of safe resettlement* (23 November)
- *Desecrations of cemeteries are hate crimes that exacerbate intolerance* (30 November)
- *Countries of the former Yugoslavia need to step up their efforts to resolve cases of missing persons* (14 December)
- *Austerity budgets will cause further child poverty* (21 December).

### Events

With the aim of promoting awareness of human rights and exploring specific concerns, the Commissioner organises workshops and conferences on topical questions. The Commissioner and his Office also contribute to debates on human rights through their participation in major conferences.

In 2010, the Commissioner’s Office organised the following events:

- Launch of CommHR Issue Paper: *Criminalisation of Migration in Europe: Human Rights Implications* (Brussels, 4 February).
- Expert workshop on “Effective and independent structures for promoting equality” (Strasbourg, 8-9 July).
- CommHR Round Table on “Human Rights Defenders in South East Europe” (Sarajevo, 1-2 December).

The Commissioner or his Office participated in the following major events during 2010:

- Seminar on: "Europe's minorities" organised by the Olof Palme International Center and the Swedish OSCE Network (Stockholm, 1 February).
- UNHCR Europe Bureau Representatives Meeting (Geneva, 2 February).
- 5<sup>th</sup> Dublin Platform for Human Rights Defenders organised by Front Line (Dublin, 10-12 February).
- Ministerial Conference on the future of the European Court of Human Rights (Interlaken, 18-19 February).
- 5<sup>th</sup> Plenary Assembly of the European Roma and Travellers Forum (Strasbourg, 24 February).
- Inauguration of Sakharov exhibition at Swedish Parliament (Stockholm, 15-17 March).
- Round Table "Effective remedies against non-execution or delayed execution of domestic court decisions" (Strasbourg, 15-16 March).
- 2<sup>nd</sup> informal meeting of the Presidents of the monitoring bodies of the Council of Europe (Strasbourg, 19 March).
- Round Table on Human Rights defenders in ex-Soviet Union countries (Kyiv, 19-24 March).
- Regional workshop on the current situation and ways for development in the area of strategic litigation for Human Rights Defenders, organised by the Ukrainian Legal Analysis and Strategies Institute for former Soviet countries (Kyiv, 20-21 March).
- Conference on combating extremism organised by the Slovak Republic Presidency in the framework of the Decade of Roma Inclusion 2005-2015 (Bratislava, 23-24 March).
- Meeting of the European Group of National Human Rights Institutions, held during the 23<sup>rd</sup> session of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (Geneva, 23 March).
- Interights Workshop on Strategic litigation of Transgender Rights in Europe (London, 26-27 March).
- Joint CoE-Youth Forum "Round Table on the state of youth rights in Europe" (Strasbourg, 29 March).
- Inauguration of Sakharov exhibition at ABF Workers' Educational Association of Sweden (Stockholm, 31 March).
- Conference 'Wounding words and acts: Hate crimes and Hate Speech' organised by the International Hrant Dink Foundation (Istanbul, 9-11 April).
- Round Table on corporal punishment jointly organised by the Council of Europe and Save the Children Sweden on the occasion of the 30<sup>th</sup> anniversary of the Swedish ban on corporal punishment of children (Strasbourg, 27 April).
- Strasbourg dialogues: "Freedom of the press: between freedom and responsibility" organised by the Council of Europe and the City of Strasbourg (Strasbourg, 5 May).

- Conference on housing rights organised by the European Federation of the Homeless (FEANTSA) and Barcelona University (Barcelona, 6 May).
- International Day Against Homophobia (IDAHO) Round Table Council of Europe/European Parliament: "LGBT rights in a greater Europe – where do we stand?" (Strasbourg, 17 May).
- World Congress of the International Federation of Journalists (Cádiz, Spain, 25-28 May).
- Conference on Human Rights and Migration (Lisbon, 31 May-1 June).
- FRA Joined-up governance stakeholder meeting (Vienna, 1-2 June).
- Video message for the International Congress on Gender Identity and Human Rights (Barcelona, 4-6 June).
- European Conference of Presidents of Parliament (Limassol, 10-12 June).
- UNICEF Spain Conference on Childhood and international protection in Europe (Madrid, 10 June).
- Conference "Access of Roma to personal identification documents - Regional challenge" (Skopje, "The former Yugoslav Republic of Macedonia", 14-15 June).
- Seminar on "Responding to Systemic Human Rights Violations: an Analysis of 'Pilot Judgments' of the European Court of Human Rights and their impact within national systems", organised by the Human Rights and Social Justice Research Institute of the London Metropolitan University (Strasbourg, 14 June).
- International Conference on "The linguistic integration of adult migrants: Ways of evaluating policy and practice" jointly organised by the Council of Europe's Language Policy and Migration Divisions (Strasbourg, 24-25 June 2010).
- 4<sup>th</sup> World Human Rights Forum Round Table on "Minority rights, what citizenship for Roma people?" (Nantes, 29 June).
- 4th Warsaw Seminar on the Concepts of General Domestic Remedy and Simplified Procedure for Amending the Convention in the Post-Interlaken Process (Warsaw, 9-10 September).
- Exchange of Views with Committee on Justice of the Dutch Senate (The Hague, 28 September).
- Lunchtime meeting on "The situation of Roma in the EU: A Challenge for the EU's Area of Freedom, Security and Justice?" organised in Brussels by the Centre for European Policy Studies and the European Economic and Social Committee (Brussels, 29 September).
- Seminar on Roma rights organised by the ABF-Workers' Educational Association (Stockholm, 30 September).
- Information session on Gender Identity and Transgender Issues organised by DG Employment, Social Affairs and Equal Opportunities of the European Commission (Brussels, 24 September).
- European Co-ordination Forum for the Council of Europe Disability Action Plan 2006-2015 - CAHPAH (Strasbourg, 27-29 September).

- Message to the International Ombudsman’s Conference organised by the Office of the Public Defender of Georgia on “the role and influence of the Ombudsman’s institution on the improvement of the condition of human rights protection” (Tbilisi, 23-24 September).
- International conference on human rights, with an emphasis on the situation in Belarus and the Baltic States and Belarusian human rights defenders’ forum organised by the Human Rights House network (Vilnius, 24-25 September).
- Message to the Round Table with the Ombudsmen of the Russian Federation (Pushkin/St. Petersburg, 28-29 September).
- Round Table on Asylum-Seekers and Refugees Seeking Protection on Account of their Sexual Orientation and Gender Identity, organised by the office of the United Nations High Commissioner for Refugees (Geneva, 30 September-1 October).
- 25<sup>th</sup> anniversary conference of the Red Cross Centre for Tortured Refugees (Stockholm, 1 October).
- Conference on "Strengthening Subsidiarity: Integrating the Court's Case-Law into National Law and Judicial Practice" (Skopje, 1-2 October).
- Video message to 3<sup>rd</sup> Transgender Council “Embracing Diversity. Stretching Boundaries. Demanding Rights” (Malmo, 1-3 October).
- 4<sup>th</sup> Council of Europe–UN Office of the High Commissioner for Human Rights (OHCHR) Coordination meeting (Geneva, 4 October).
- International Ombudsman Institute (IOI) European Chapter Conference on “Europe as an Open Society: Migrants and Rights” (Barcelona, 4 October).
- Human Dimension Sessions of the OSCE Review Conference (Warsaw, 6-7 October).
- Joint annual meeting of the European Network of Ombudsmen for Children (ENOC) and the European Network of Young Advisors (ENYA) (Strasbourg, 8 October).
- Conference "Local Government Responses to Recession across Europe" jointly organised by the Council of Europe and the Local Government and Public Service Reform Initiative of the Open Society Foundation (Strasbourg, 11 October).
- Meeting with Group of Eminent Persons (Strasbourg, 15 October).
- 4th Equality Summit: Equality and Diversity in Employment (Brussels, 15-16 November).
- 60<sup>th</sup> Anniversary of the European Convention on Human Rights (Strasbourg, 19 October).
- Video message to the Council of Europe Forum on the Future of Democracy (Yerevan, 19 October).
- Council of Europe’s High-Level Meeting on Roma (Strasbourg, 20 October).
- Conference "Unaccompanied children: what protection at the European level?" jointly organised by France Terre d’asile and the Council of Europe (Strasbourg, 20 October).
- Seminar on "The rights of suspects on arrest", organised by the Open Society Justice Initiative (Strasbourg, 22 October).

- Amnesty International Expert Conference on "Police and Human Rights" (Berlin, 25 October).
- 5<sup>th</sup> Round Table of National Government Focal Points on LGBT Equality Mainstreaming Policies (The Hague, 27 October).
- 60<sup>th</sup> anniversary of the European Convention on Human Rights (Berlin, 27 October).
- 1<sup>st</sup> Minority Research Network (MRN) conference organised by the Erasmus University (Rotterdam, 27-29 October).
- Human Rights Foundation of Turkey anniversary conference (Istanbul, 29-30 October).
- Written message to Anafé's 20th anniversary conference "Les zones d'attente, 20 ans d'évolution: le sous-droit des étrangers?" (Paris, 29 October).
- FRA Joined-up governance project meeting (Vienna, 4-5 November).
- Swedish Forum for Human Rights *MR-dagarna* (Örebro, 15 November).
- Round Table on Durable Solutions for Refugees: Local integration, voluntary repatriation, and resettlement, jointly organised by the UNHCR and the Council of Europe's Directorate for Social Cohesion (Strasbourg, 15 November).
- Conference of Council of Europe Ministers of Justice "Modernising Justice in the Third Millennium" (Istanbul, 24-26 November).
- Video message to the Council of Europe Campaign to Stop Sexual Violence against Children High-Level Launching Event (Rome, 29 November).
- Round Table organised by the European Network of Equality Bodies (Equinet) on the usefulness of equality legislation for transgender persons (Brussels, 8 December).
- UN International Human Rights Day Lecture at the London School of Economics and Political Science (LSE) Centre for the Study of Human Rights (London, 9 December).
- European Consensus Conference on Homelessness (Brussels, 9-10 December).
- Fundamental Rights Conference "Ensuring Justice and Protection for All Children" organised by the FRA and the Belgian EU Chairmanship (Brussels, 7-8 December).
- 3<sup>rd</sup> "inter-mechanisms" meeting organised by the Observatory for the protection of human rights defenders and hosted by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) (Warsaw, 8-9 December).
- Ceremony on the occasion of Human Rights Day organised by the Russian Federal Ombudsman, Mr Vladimir Lukin (Moscow, 10 December).
- 4<sup>th</sup> Council of Europe Conference on Nationality (Strasbourg, 17 December).

#### *Communication and information work*

The positive trend in terms of communication output continued and developed in 2010. The Commissioner was very visible in the media, including in the major media which ensured more than 26% of the media coverage. Direct contacts with journalists increased significantly, which had a favourable impact both in terms of the quantity and quality of media coverage.

The subjects of greatest media interest were country reports and visits as well as the opinions expressed on the human rights situation of Roma, migrants and asylum-seekers, the conflict in Georgia, discrimination and forced returns to Kosovo\*.

As part of the activities carried out to promote awareness of human rights and their defence, the Commissioner engaged in a project which revisits the significance of Andrei Sakharov's message for today's human rights work. The project resulted in an itinerant exhibition "Andrei D. Sakharov: Alarm and Hope", which has already been on display in eight countries, and the publication of the book "Andrei Sakharov and Human Rights" (for details see above under 3.2).

Viewpoint articles were discontinued in March and a new communication tool, "Human Rights Comment", was established. Published in English, French and Russian, the Commissioner's Human Rights Comments have been disseminated in the press and among NGOs and other relevant human rights actors. They are available on a specific website which also contains video and audio files on the Commissioner's work. Information on the Commissioner's activities is now also available on Twitter.

A film on the Commissioner's work, aimed at the public, was disseminated both via the website and during many meetings.

Co-operation with Council of Europe field and information offices continued to be very effective, in particular in relation to visits and visibility in the national media.

#### **6.4 *Human Rights Defenders***

See above pp. 25-27.

#### **6.5 *External relations***

See above pp. 27-29.

#### **6.6 *Co-operation with National Human Rights Structures***

See above pp. 29.

### **7 Staff and budget**

In 2010, the Commissioner's Office totalled 19 permanent posts (11 A-grade posts and eight B-grade posts) and three fixed-term positions. One A4 staff member was seconded to DGHL to assist with co-operation activities. To cope with the increasing workload, the Office employed eight temporary staff, and four staff were seconded by the following governments: Switzerland (one in Strasbourg from February and one in Tbilisi), Poland (from February) and the Netherlands. The ordinary overall budget appropriations were of €2,408,600. The Commissioner's budget represents slightly more than one per cent (1.14%) of the total ordinary budget of the Council of Europe.

In 2010, the Commissioner benefited from a total amount of €573,712 in voluntary contributions from the governments of Belgium, Cyprus, Finland, Monaco, the Netherlands, Norway, Spain, Sweden, Switzerland, Turkey and the United Kingdom. The Commissioner expresses his sincere gratitude for the voluntary contributions made by these member states.

In 2010, the Office was given one additional fixed-term position and will benefit from the redeployment of two additional posts in 2011. While the Commissioner is grateful for these positive steps, he would like to highlight that further progress is not possible without a further increase in resources.

In order to fulfil his mandate and to ensure a real continuity in his work, the Commissioner has determined the staff requirement for his Office to be of 30 permanent posts, with this figure representing a ceiling not to be exceeded. The Commissioner will present once again his requests for the resources necessary for the full implementation of his mandate in the context of the preparatory discussions for the 2012-13 budget.

The basic structure necessary for the implementation of the mandatory activities should be ensured by permanent means covered by the ordinary budget of the Council of Europe. This will permit the institution, which can be considered as having proved itself, to function adequately in the medium and long term, ensuring the quality of its output and guaranteeing the essential element of its mandate, which is the principle of the independence of the Commissioner.

The additional resources requested by the Commissioner are in themselves limited to what is strictly necessary. It is important for the Commissioner to be able to function with a small but efficient team. The Office should maintain a limited size, in order to function with as much fluidity as possible, remain flexible and keep bureaucracy to a minimum.