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COMMISSAIRE AUX DROITS DE L'HOMME



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## **ANNUAL ACTIVITY REPORT 2011**

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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

I have had the honour to serve as the Council of Europe's Commissioner for Human Rights during the last six years. My mandate comes to an end in March and this annual report is therefore my last one.

When starting back in 2006, I said that I would focus on *implementation* and seek to provide concrete input to help the protection of human rights - to move from rhetoric to enforcement. To this end, I have made use of the Council of Europe standards and tried to contribute to the fostering of a culture of human rights.

I have been happy to see that member states have respected the independence of my mandate. I have in most cases had a meaningful dialogue with national authorities, even when I have expressed critical concerns. Governments have taken my reports seriously and demonstrated a constructive attitude towards the recommendations therein. I hope the future Commissioner will be given an opportunity to build on this understanding.

This is particularly important as so much more needs to be done.

Let me mention some remaining problems which I feel must be addressed with determination and energy.

One is the structural dysfunction of the *justice system* in several member states where corruption and political interference are still flagrantly present. Court proceedings are too often excessively lengthy and pre-trial detention is also used excessively in cases when there is no risk that the suspect will abscond or sabotage investigations. It is estimated that no less than one in every four prisoners in Europe today is detained on remand - that is before final conviction.

More positive has been the development of quasi-judicial mechanisms such as *ombudsmen*, *equality bodies* and other national human rights structures. These have established themselves in a number of member states as independent, impartial and effective defenders of human rights. However, I have also noticed that in several cases they have suffered budget cuts during the economic crisis – when their voices and work had become even more important than before.

*Free media* are essential to democracy and human rights. However, I have noticed that different forms of control and pressure over the variety and content of broadcast and print media have hampered their independence and pluralism. In a number of European states media freedom is undermined through criminalisation of defamation; law-induced censorship; intimidation, harassment and even murder of journalists; politicisation of the allocation of radio and television frequencies; and monopoly tendencies undermining pluralism in the media landscape. Another threat against freedom of expression is the temptation to over-regulate Internet-based social media.

Much of my work has focused on steps to be taken to protect certain groups in society from discrimination. *People with disabilities* are vulnerable, in particular persons with mental health problems or intellectual disabilities. Persons with disability remain largely excluded from key sectors of life, including access to adequate and humane health care, decent work and housing, public places, transportation, quality education and sometimes even civil rights, such as the right to vote. As adequate support is not always provided, many persons with disabilities and their families live in poverty and disparaging living conditions. They are also particularly vulnerable to violence and abuse, sometimes at the hands of the very persons who are supposed to be their carers.

Though legal protection of their rights has developed at international and European level, these standards have not yet been translated into concrete policies and real results on the ground. The needs of persons with disabilities are still given low priority in state and municipality budgets. More recognition, protection and social inclusion should be ensured for them.

The living conditions of *older persons* are another major concern. The elderly have been forced to take much of the burden of recent economic problems and austerity budgets. I have seen signs of deep old-age poverty in several countries. Many of the victims are women, often with very minimal pensions. The situation in care homes for elderly persons differs greatly, but there are institutions which are substandard and where the residents are not well taken care of – and in some cases even abused or neglected. There is a need for a deeper discussion on the rights of older people. I sincerely hope that the Council of Europe will respond to this important challenge.

*Roma* still live in abject misery and suffer alienation in many European countries. Urgent measures must be taken to ensure more humane housing standards for Roma families, grant access to quality education and foster social inclusion. To this end, it is crucial to guarantee that all Roma, in particular children, have personal identity documents and are no longer treated as stateless. Without more energetic efforts to achieve these basic results, it will be difficult to put an end to wide-spread anti-Gypsyism, to which some politicians have also contributed.

Other human beings who suffer marginalisation and stigmatisation are *lesbian, gay, bisexual and transgender persons*. They are grossly discriminated in several member states just because of their sexual orientation and gender identity. This is very much a question of knowledge and attitudes. It is particularly important that credible opinion builders in each society demonstrate the courage to address these prejudices and make clear that international standards and national legislation already prohibit discrimination against these groups.

Migration was, is and will be a highly controversial issue in Europe. Attitudes towards *asylum-seekers and migrants* have gradually become more negative and this has influenced policies. Political leaders have all too often preferred to follow – rather than lead – public opinions, thus feeding xenophobic movements. The perspective that Europe in future will need immigration is seldom mentioned in this climate. Europe should adopt a more humane migration policy and asylum procedures based on human rights principles. This will require co-ordination between European countries and at least a minimum level of solidarity between them.

The struggle for *gender equity* must continue. Despite some progress in awareness and legal protection, discrimination against women persists in employment, education and political participation. Furthermore, violence against women remains a significant yet under-estimated problem. Taboos, ignorance and machismo still surround the issue of domestic violence, contributing to its persistence. Women in all parts of Europe continue to be victims of rape, sexual exploitation and forced prostitution. Male politicians are still much too passive on these issues.

We have child poverty in Europe – millions of children grow up in destitute families or have been placed in care homes or other institutions. About half of the member states have not banned corporal punishment of children. There are alarming reports about tragic cases of physical, sexual and psychological violence and abuse. The Council of Europe's campaigns for the rights of the child have sent signals which must be taken seriously by authorities in the member states.

Some of the problems I have mentioned here relate directly to the current economic crisis and have worsened since 2008. It should of course be recognised that governments are facing extremely difficult times when seeking to boost the economy and rebalance public finances. Considerations of the human rights impact of different policies must not be forgotten in this endeavour. Plans and strategies which sacrifice individual economic and social rights, as well as the democratic process, would be greatly mistaken. Putting human rights at the centre of the recovery plans should not be seen as an additional strain on budgets, but rather as a reinforcement of our society and its resilience.

Addressing all these issues and other human rights challenges will require wisdom, courage and political will in government offices. I am convinced that the Council of Europe and the Office of the Commissioner can and must contribute. I hope that the Commissioner will continue to benefit from genuine co-operation with governmental authorities, national human rights structures and non-governmental organisations in order to be able to assist in the identification of shortcomings and to provide meaningful and impartial

advice. This institution should be provided with the adequate resources to ensure that it is equipped to fulfil such a role with the necessary competence.

Finally, I would like to thank all of the staff in my Office, who have assisted me in such a competent and committed manner. To the assistants, advisors and directors I have worked with goes my deepest gratitude.

Strasbourg, 17 January 2012

A handwritten signature in cursive script, reading "Thomas Hammarberg". The signature is written in dark ink and is positioned below the date.

# 1 Country visits

## 1.1 Introduction

Throughout 2011 the Commissioner continued to lay emphasis on and pursued a continuous, constructive dialogue with member states, including country visits and their follow-up.

The Commissioner carried out focused country visits to address specific human rights issues as well as post-conflict and crisis situations. Reports and other documents 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. In 2011, following his visit to Hungary, the Commissioner published an Opinion concerning Hungary's media legislation (see below). All these documents, along with the replies from the authorities, are published on the Commissioner's website and are widely circulated among policymakers, NGOs and the media.

The present chapter contains brief summaries of the Commissioner's visits carried out in 2011 and of their outcomes.

## 1.2 Visits

### *Visit to Armenia*

The Commissioner visited Armenia from 18 to 21 January. The visit focused on human rights issues related to the March 2008 events in Yerevan, freedom of expression, freedom of assembly and association, and human rights in the army. During the visit, the Commissioner met with the President of the Republic, Mr Serzh Sargsyan, the Minister of Defence, Mr Seyran Ohanyan, the Minister of Foreign Affairs, Mr Edward Nalbandyan, the Minister of Justice, Mr Hrayr Tovmasyan, the Prosecutor General, Mr Aghvan Hovsepyan, the Military Prosecutor, Mr Gevorg Kostanyan, and the President of the National Commission on Television and Radio, Mr Grigor Amalyan. In addition, the Commissioner met with the Human Rights Defender (Ombudsman), Mr Armen Harutyunyan, and representatives of civil society and the international community.

In the course of his visit, the Commissioner went to the Prison Hospital in Yerevan, where he talked to Mr Sasun Mikaelyan, former member of the National Assembly and opposition activist. He also travelled to Artik Prison in the northwestern region of Shirak, where he met opposition activists Mr Nikol Pashinyan (editor-in-chief of the daily *Armenian Times*) and Mr Harutyun Urutyunyan, as well as three conscientious objectors from the community of Jehovah's Witnesses. Mr Urutyunyan was released on 17 March, and all others who remained in prison in relation to the March 2008 events were released (including the other two opposition activists mentioned above) through a general amnesty adopted by the National Assembly on 26 May. The Commissioner welcomed the releases of those persons.

Further to this visit, the Commissioner published a report on 9 May. Concluding that the excessive use of force during the March 2008 events had led to serious human rights violations, the Commissioner urged the Armenian authorities to pursue vigorously the investigation into the ten deaths and the instances of police abuse during arrests and detention. He emphasised that the investigation should clarify the circumstances of the ten deaths, identify the perpetrators of such acts and hold them accountable. The Commissioner also called on the authorities to further consider the question of command responsibility as concerns senior police and national security officials who were in charge during the March 2008 events.

The Commissioner expressed support to the wide-ranging reform process undertaken by the Armenian authorities and stressed the importance of consultation with civil society actors in this regard. In particular, he underlined that an important aim of the reform of the police, security structures and other law enforcement bodies should be to eradicate the phenomenon of violence and abuse by members of those

agencies. In this regard, the Commissioner noted that the establishment of an independent complaints mechanism would significantly contribute to combating impunity.

The Commissioner welcomed the decriminalisation of libel and insult and stressed that unreasonably high fines in civil cases related to the media should be avoided. He further encouraged the promotion of ethical journalism and the development of a system of effective self-regulation by the media. The Commissioner also urged the Armenian authorities to review the Law on Television and Radio, giving due consideration to the proposals submitted by the Ombudsman and civil society. The Commissioner highlighted the importance of the principle of pluralism in the audiovisual media spectrum, which also applies when taking licensing decisions for broadcasting media.

While welcoming some progress regarding the implementation of the right to freedom of peaceful assembly, the Commissioner stressed that any unlawful and disproportionate impediments on peaceful rallies, including those criticising the authorities, should be discontinued.

The Commissioner expressed grave concern over the cases of non-combat deaths, torture and ill-treatment reported in the Armenian army. He urged the Armenian authorities to confront the full extent of this problem and intensify their efforts, through prompt and effective investigations, to put an end to the impunity of perpetrators and responsible commanders. Furthermore, the role of independent human rights monitoring mechanisms with regard to the situation in the army should be enhanced. Regarding the right to conscientious objection, the Commissioner emphasised the urgent need to develop a genuinely civilian service option in Armenia, and recommended the release of all conscientious objectors imprisoned because of nonperformance of military service.

### ***Visit to Hungary***

The Commissioner visited Budapest from 27 to 28 January, on the occasion of his participation in the Conference on "Social Networks" marking Data Protection Day 2011. During the visit, which focused mainly on freedom of expression and media pluralism and the protection of the human rights of Roma, the Commissioner held meetings with the State Minister for Social Inclusion, Mr Zoltán Balog and the President of the National Media and Infocommunication Authority, Ms Annamária Szalai. The Commissioner also had meetings with a number of non-governmental organisations and visited a school in Erdélyi street, in the 8<sup>th</sup> district of Budapest, which is mainly attended by Roma children.

On 25 February, as a follow-up to this visit, the Commissioner published an Opinion entitled *Hungary's media legislation in light of Council of Europe standards on freedom of the media*. In his Opinion the Commissioner made several recommendations to the Hungarian authorities, including the repeal or revision of a number of media law provisions. The recommendations concern: the establishment by domestic law of subjective criteria relating to the information and coverage that media must provide; sanctions for infringements of media legislation; registration requirements for a broad range of media, including print and online media; protection of journalists' sources; media freedom in the context of Hungary's Constitution; appointments to media regulatory authorities; appointments to the management of public broadcasting services; appeals against decisions of the Media Council.

The Commissioner concluded that the wide range of problematic provisions in Hungary's media legislation coupled with their mutually reinforcing nature result in an unfortunate narrowing of the space in which the media can operate freely in Hungary – a comprehensive revision of the media law package as a whole was therefore highly recommended.

### ***Visit to Albania***

The Commissioner visited Albania between 13 and 15 February in order to assess the human rights aspects of events in connection with the demonstration of 21 January during which four demonstrators lost their lives and a number of policemen and demonstrators were injured.

During the visit the Commissioner held meetings with the President of the Republic, Mr Bamir Topi, the Prime Minister, Mr Sali Berisha, the Minister of Justice, Mr Bujar Nishani, the Minister of the Interior, Mr Lulzim Basha, the Prosecutor General, Ms Ina Rama, the Acting Ombudsman, Ms Florina Nuni, the Commissioner for the Protection against Discrimination, Ms Irma Baraku and the Commissioner for Personal Data Protection, Ms Flora Çabej. He also met four leading representatives of the Socialist Party. In addition, he had meetings with a number of Ambassadors present in Albania as well as representatives of non-governmental organisations and media. Discussions during these meetings focused on the circumstances around the demonstration of 21 January, including the crowd control measures, shootings and the behaviour of the demonstrators, the arrests effected thereafter, the allegations of ill-treatment by the police and the investigation conducted by the Prosecutor General.

Following the visit, on 22 February, the Commissioner published a special report. The Commissioner expressed the opinion that impartial and credible investigations were needed into the human rights violations committed on 21 January. Welcoming the fact that representatives of both the government and the opposition regarded investigations by the Office of the Prosecutor General as the only alternative, the Commissioner asked the political forces not to interfere with the investigation and to avoid political statements in this regard. He also stated that it was crucial for all other authorities, including the police, to fully and promptly co-operate with the Prosecutor General's investigation.

### ***Visit to Malta***

The Commissioner visited Malta from 23 to 25 March to discuss issues relating to the protection of the human rights of migrants, including asylum seekers. During the visit, the Commissioner met with the Permanent Secretary of the Ministry of Justice and Home Affairs, Mr. Mario Debattista, the Director General of Operations of the same Ministry, Mr. Mario Caruana, the Director of the Agency for the Welfare of Asylum Seekers, Mr. Alexander Tortell, the Refugee Commissioner, Mr. Mario Friggieri, the Chairman of the Refugee Appeals Board, Mr. Henry Frendo, and the Commander of the Detention Service Colonel Brian Gatt. He also met with the Ombudsman Mr. Joseph Said Pullicino, the Commissioner at the National Commission for the Promotion of Equality, Ms Maud Muscat, and international and non-governmental organisations. The Commissioner also visited the migrant detention centre in Safi and the open centres accommodating migrants in Marsa and Hal-Far.

Following up to his visit, on 9 June, the Commissioner published a report in which he underlined that Malta should establish a human-rights compliant system of reception and integration of migrants. To this end, European solidarity is key. This means more avenues enabling migrants to move to other countries, but also financial and other assistance to improve the material conditions, asylum determination procedures and integration opportunities in Malta. This has been even more urgent in 2011, as Malta saw new arrivals of migrants, including asylum seekers, from Libya due to the armed conflict.

The Commissioner considered the policy of mandatory administrative detention for arriving migrants, including asylum-seekers, as irreconcilable with human rights standards. He called on the Maltese authorities to implement alternatives to detention and to make effective remedies to challenge detention available to migrants.

As concerns living conditions in closed and open centres, the Commissioner found the situation in the Hal-Far tent village inadequate even for short periods of time and recommends its closure. Material conditions in the Hangar Open Centre in Hal-Far, which has re-opened since the Commissioner's visit and following new arrivals from Libya, were also reported to be seriously sub-standard. The Commissioner recalled that vulnerable groups of migrant people, such as families with children, unaccompanied minors, pregnant women, elderly persons and persons with disabilities are entitled to special protection. He noted that their accommodation in big open centres, including those in Hal-Far and Marsa, must be avoided.

The Commissioner praised the Maltese authorities' long-standing efforts to rescue irregular migrants at sea and encourages them to keep the country's borders open for people in need of international protection, including those who are forced to flee from North Africa. He underlined the need to ensure

effective access to adequate asylum determination procedures and to avoid returning individuals to countries where they would face a real risk of persecution or ill-treatment.

He welcomed the progress made in several aspects of the asylum system in recent years in Malta, such as the shortening of the time needed to process asylum applications, improved provision of information to asylum seekers, and the increased rate of recognition of refugee status. However, further progress is necessary in law and practice concerning asylum proceedings. The Maltese authorities were urged to provide access to legal aid, and improve access to case files for asylum seekers and their representatives in first instance proceedings before the Refugee Commissioner. Furthermore, second instance proceedings must be made an effective tool for review.

As concerns migrants' integration into Maltese society, the Commissioner expressed concerns at the fact that the system currently in place to support migrants, including beneficiaries of subsidiary protection, perpetuates their social exclusion and leaves them at serious risk of destitution. He stressed that financial support for migrants should not be dependent on residence in the open centres and that all beneficiaries of international protection should benefit from financial support and social assistance.

Finally, Commissioner Hammarberg was seriously concerned at manifestations of racism and xenophobia in Malta. These phenomena exacerbate the difficulties that migrants face across many areas of life, including employment, housing, access to services and places of entertainment. The Commissioner recommended stronger efforts by the authorities to counter this trend and to foster the durable integration of migrants in Malta. The media should also be more engaged in fostering mutual understanding and combating stereotypes in public debate.

### ***Visit to Spain***

The Commissioner visited Spain from 4 to 6 April focusing on the protection of the human rights of Roma. During his visit the Commissioner met with the Secretary of State for Social Policy, Ms Isabel Martínez Lozano, the Acting Ombudsperson, Ms María Luisa Cava de Llano, the Director of the Roma Cultural Centre, Mr Diego Fernández Jiménez, the Chairperson of the Council for the Promotion of Equality and non Discrimination due to Racial or Ethnic Origin, Mr José Manuel Fresno, and members of the National Council of Roma. He also had an exchange with representatives of civil society, local authorities and police officers in Fuenlabrada.

With the support of the *Fundacion Secretariado Gitano* and the Institute for Relocation of the Madrid region (IRIS), the Commissioner visited several settlements and neighbourhoods where Roma encounter harsh living conditions. He also visited the Cañada Real Galiana district, near Madrid.

Following the visit, on 1 June, the Commissioner published a letter addressed to the Spanish Minister of Health, Social Policy and Equality. By this letter the Commissioner welcomed several good practices regarding the integration of Roma which are currently being developed at local and national level in Spain. He also highlighted the remaining gaps regarding the protection of the human rights of Roma, such as the difficulties in accessing the labour market. The Commissioner called on the authorities to ensure that the current economic crisis will not disproportionately affect Roma. Despite important efforts made by the Spanish authorities, numerous Roma families continue to live in substandard dwellings including shantytowns. The Commissioner urged the authorities to ensure decent living conditions for all Roma. Access to quality health care for all Roma should also be a priority.

Regarding access to education, the Commissioner considered that measures must be adopted to combat the high drop out rate of Roma children enrolled in secondary education. Finally he called for a reinforcement of the fight against discrimination and anti-Gypsyism. Further efforts are necessary to eliminate deep-seated prejudices towards the Roma. In addition to adopting comprehensive anti-discrimination laws, authorities should develop guidance for professionals including law enforcement authorities, media and public officials. Political leaders have a vital role to play by promoting tolerance. The Commissioner called on the Spanish authorities to adopt a number of measures to tackle anti-Roma rhetoric including promoting the Roma culture, languages and tradition.

### **Visit to Slovenia**

The Commissioner visited Slovenia from 7 to 8 April on the invitation of the Slovenian government to participate in the celebration of the International Day of Roma on 8 April 2011 in the Kamenci Roma settlement, in northeast Slovenia. On this occasion he participated, together with the Slovenian Human Rights Ombudsman, Ms Zdenka Čebašek-Travnik, in the inauguration of a cultural and information centre in this settlement which was opened with the support of the Council of Europe.

The Commissioner was pleased to see that in Kamenci there appeared to be good co-operation between the Roma community and the local authorities. He noted that this co-operation facilitated a harmonious relationship in this settlement between Roma and non-Roma residents. He met with a number of Roma representatives, including the representatives of the Roma Academic Club society, and had fruitful discussions on various issues relating to the situation of Roma in Slovenia.

During the mission the Commissioner discussed the protection of the human rights of Roma and the situation of the 'erased' persons. The Commissioner met with the Slovenian authorities, including President Danilo Türk, and the Minister of Foreign Affairs, Mr Samuel Žbogar, as well as representatives of non-governmental organisations. The Commissioner also held a meeting with the Slovenian Human Rights Ombudsman.

Following the visit, on 7 June, the Commissioner published a letter to Prime Minister Borut Pahor, focusing on the human rights of Roma and the situation of the 'erased' persons. The Commissioner welcomed the positive measures taken by the government aimed at improving the human rights of Roma and their access to housing, education and employment. He praised the efforts made to promote the inclusion of Roma in society, not least by providing for their political participation in local assemblies. He recommended that the authorities share the model of elected Roma councillors, as an example of good practice, with other member states of the Council of Europe.

The Commissioner pointed out that despite the progress made, serious problems remain and that he is very concerned about reports on the housing situation of some Roma communities in Slovenia, in particular in the southeast region of the country. He urged the authorities to take measures at the local level in order to resolve the lack of access to running water, sanitation and electricity. In this regard, he encouraged increased co-operation and exchanges of good practices between different municipalities.

The Commissioner underlined that while the implementation of a number of education projects, especially those implemented in co-operation with Roma associations, will give tangible results in a longer perspective, immediate measures are needed to decrease the drop-out rate of Roma pupils. He stressed that increased inclusion in pre-school education is a good initial step towards resolving this problem.

The Commissioner also raised in his letter to the Prime Minister the issue of the 'erased' persons. In 1992 the Slovenian authorities erased more than 25 000 citizens of the former Yugoslavia from the register of permanent residents, some of whom became stateless. An amended law from 2010 should enable the 'erased' persons to submit requests for the restoration of their formal status. However, the Commissioner noted indications that only 120 'erased' persons had submitted their requests, and of those 32 were rejected. While expressing his appreciation for the determination of the Slovenian government in finding a solution for the situation of the 'erased', he stressed that the amended law does not fully remedy the negative impact that the 1992 'erasure' has had on the enjoyment of human rights by the persons concerned. He suggested, *inter alia*, to the Slovenian government to initiate discussions aimed at creating reparation mechanisms for the 'erased' persons that would fully take into account the circumstances of each individual case.

### **Visit to Georgia**

The Commissioner visited Georgia from 18 to 20 April to assess the situation of the administration of justice and level of protection of human rights in the justice system. In Tbilisi, the Commissioner met the Minister of Corrections and Legal Assistance, Ms Khatuna Kalmakhelidze, the First Deputy Minister of

Justice, Ms Tina Burjaliani, the Chairman of the Supreme Court, Mr Konstantine Kublashvili, the Prosecutor General, Mr Murtaz Zodelava, the Chairman of the Parliamentary Committee on Legal Issues, Pavle Kublashvili and the Chairman of the Committee on Human Rights and Civic Integration, Mr Lasha Tordia. He also held discussions with the Public Defender (Ombudsman), Mr George Tugushi and number of judges, as well as lawyers and representatives of civil society and the international community. In addition, the Commissioner went to the penitentiary establishments 6, 16, and 17 in Rustavi, where he met several prisoners. The Commissioner also met with the Catholicos-Patriarch of All Georgia, His Holiness Ilia II.

On 5 July, the Commissioner published a report on his visit, in which he welcomed the initial results reported by the Georgian authorities in the context of the reform of the criminal justice system. Further to the concerns expressed in relation to the stringent policy of “zero tolerance” of petty crime, the Commissioner encouraged the authorities’ efforts to adopt a more human-rights oriented criminal justice policy centred on the principles of restorative rather than retributive justice. The Commissioner also recalled the established principle that pre-trial detention should be used as a measure of last resort and encouraged the use of alternative measures to detention on remand whenever possible, in particular in cases involving minors.

While substantial measures have been taken to reinforce judicial independence in Georgia, the Commissioner assessed that further efforts should be made to safeguard the judiciary from undue interference. The Commissioner also recommended that further steps be taken with a view to securing political independence of the High Council of Justice in practice. In addition, he called for the strengthening of the autonomy of the prosecution service, both in law and in practice. Effective measures should be taken in order to guarantee effective prosecutorial supervision of police investigations.

On the issue of access to justice, the Commissioner stressed that lawyers should be able to operate without impediments and be free from harassment, abusive prosecutions and pressure. The Commissioner urged the authorities to give full effect to the enhanced defence rights in the new Code of Criminal Procedure and recommended that the imbalance between the defence and the prosecution be addressed to ensure genuine adversarial proceedings. The Commissioner expressed concern with regard to a possible distortion of justice caused by the current functioning of the plea-bargaining system in Georgia. He recommended adequate control from judges over the plea-bargaining process, an appropriate role for the defence and enhanced clarity and transparency of the system.

The Commissioner called on the Georgian authorities to respond to legitimate concerns related to criminal cases against political activists where there have been credible allegations of serious deficiencies marring the criminal investigation and judicial processes. The Commissioner also urged the authorities to address without delay the cases of individuals where *prima facie* evidence exists in respect of unlawfulness of conviction.

The Commissioner underscored the imperative for the Georgian authorities to ensure the accountability of law enforcement officials who commit serious offences through prompt and effective investigations of allegations of ill-treatment. In addition, he recommended that steps be taken in such cases to ensure greater participation of the victim during investigations and trials, and that information be provided to the public on the outcome of the investigations concerned.

The findings of the two international experts mandated by the Commissioner to monitor the investigations into certain cases of disappearances that occurred during and after the August 2008 conflict also reflect serious problems of accountability. The Georgian authorities informed the Commissioner that the investigation of the case into the disappearance of Mr Alan Khachirov, Mr Alan Khugaev and Mr Soltan Pliiev had been transferred from the regional prosecutorial authorities in Shida Kartli to the Chief Prosecutor’s Office. The Commissioner welcomed this step in his visit report, and requested that the Georgian authorities provide further information on the progress of this investigation.

## ***Visits to Turkey***

The Commissioner went to Istanbul from 27 to 29 April with a view to obtaining information on the latest developments concerning freedom of expression and freedom of the media. During this visit the Commissioner held meetings with a number of journalists and media experts, civil society organisations active in the field of human rights, as well as professional associations of journalists, publishers and lawyers.

On 12 July the Commissioner issued a report following up to his visit. He stated that despite the progress made by Turkey in recent years regarding free and open debates on previously sensitive issues, the situation of freedom of expression and media freedom remains particularly worrying. Urgent measures are needed to uphold these rights and foster a more tolerant atmosphere towards criticism and dissent.

The Commissioner welcomed recent changes to the Turkish Constitution, which are likely to have a positive effect on freedom of expression and media freedom. He considered, however, that the letter and spirit of the present Constitution continue to hinder the full respect of pluralism and freedom of expression. He therefore encouraged the Turkish authorities to ensure that the planned constitutional reform addresses these obstacles.

Likewise, the Criminal Code and the Anti-Terrorism Act continue to seriously impede freedom of expression in Turkey. In the Commissioner's view provisions of these pieces of legislation have been used to disproportionately limit freedom of expression, including of journalists, broadcasters and publishers. The amendments adopted so far by Turkey have not been sufficient in dealing with the root causes of numerous violations of the right to freedom of expression found by the European Court of Human Rights. The Commissioner expressed his particular concern about the use of civil and criminal defamation provisions, and invites public figures to refrain from initiating defamation proceedings which have serious chilling effects on media freedom.

The Commissioner also found that the overly restrictive attitude of judges and prosecutors has been a serious impediment to the efforts to improve freedom of expression. He noted that courts and prosecutors do not always interpret and apply existing statutory provisions with due respect to the principle of proportionality and the standards of the European Convention on Human Rights concerning freedom of expression. The Commissioner added that the authorities should notably introduce into the Turkish legal system the defences of truth and public interest when assessing the criminal responsibility of journalists.

The Commissioner called on Turkey to effectively address the serious, long-standing dysfunctions within the Turkish judicial system affecting also freedom of expression. The excessive length of criminal proceedings and of pre-trial detentions, problems concerning defendants' access to evidence against them pending trial, and the lack of restraint on the part of prosecutors in filing criminal cases adversely affect freedom of expression and lead to self-censorship in Turkish media. The Commissioner urged the Turkish authorities to address these problems through legislative and practical measures, as well as through systematic training and awareness-raising activities within the justice system.

The Commissioner considered that a review by the Turkish authorities of the Internet Act and the Radio and Television Act is also urgently needed. He considered in particular that systematic Internet censorship and the blocking of websites by competent administrative authorities is beyond what is necessary in a democratic society.

Finally, recalling notably the murder of the writer Hrant Dink, the Commissioner urged the authorities to step up their efforts to effectively protect journalists from violence and intimidation. He also recommended addressing the precarious working conditions of many journalists, in particular investigative ones, and putting an end to the systematic violation of labour rights of media professionals.

The Commissioner carried out a second visit to Turkey (Istanbul, Diyarbakir and Ankara) from 10 to 14 October. In the course of this visit, which focused on human rights issues related to the administration of justice, the Commissioner held meetings with national authorities including the Minister of Justice, Mr

Sadullah Ergin, the Minister of Interior, Mr İdris Naim Şahin, the Acting President of the High Council of Judges and Prosecutors, Mr Ahmet Hamsici, Secretary General of the Constitutional Court Mr. Oğuz Kaya, the Secretary General of the Court of Cassation Mr Aydın Başgelmez, and the head of the Commission of Human Rights of the Turkish Grand National Assembly, Mr Ayhan Seferüstün. The Commissioner met also with representatives of international and non-governmental organisations and visited two prisons, the one in Silivri, Istanbul and the D-type prison in Diyarbakir and held discussions with prison authorities and inmates.

In a press release issued at the end of his visit the Commissioner noted that the European Court of Human Rights delivered more than 2 200 judgments against Turkey in the period 1995-2010. Almost 700 of these judgments concerned violations of the right to a fair trial, and more than 500 related to the right to personal liberty and security. The Commissioner encouraged the Turkish government to step up its efforts and give effect to the judicial reform strategy it launched in 2009 in order to redress the structural shortcomings and fully align justice in Turkey with Council of Europe standards and the Court's case-law.

Excessive delays in criminal, civil and other courts in Turkey is a serious problem that, despite certain measures taken so far, has not been effectively addressed. In addition, the excessive length of pre-trial detention is a chronic problem that adversely affects the personal liberty of thousands of persons. Noting that in several cases domestic courts have failed to take into account alternatives to detention, such as release on bail, already provided for by law, the Commissioner underlined in his press statement that this issue requires not only legislative changes but above all attitude changes of prosecutors and judges who appear to approve this practice rather too easily.

The Commissioner welcomed the abolition of state security courts but remained seriously concerned by the establishment and operation of the assize courts with special powers, competent to deal with cases of organised crime and terrorism. He expressed his concern at a number of problematic practices of these courts and prosecutors, in particular in connection with the anti-terror legislation, such as the incommunicado custody for 24 hours, the restriction of the number of defence lawyers to one, the restriction of access by defendants to the prosecution file, and censorship of correspondence between the defendants and their lawyer.

Lastly, the Commissioner underlined that courts also have a major role to play in the fight against impunity for serious human rights violations, especially those committed by law enforcement officials. A number of serious cases have been brought to his attention, like the one concerning the death in police custody of a Nigerian, Festus Okey, in 2007. The Commissioner stressed that law and the courts should enhance the standing of the victim and their family in investigations and proceedings.

A report following this visit will be published at the beginning of 2012.

### ***Visit to the Russian Federation***

The Commissioner visited the Russian Federation from 12 to 21 May, in the course of which he went to Moscow as well as to four republics in the North Caucasus Federal District: Kabardino-Balkaria, North Ossetia-Alania, the Chechen Republic and Ingushetia. In Moscow, the Commissioner met Deputy Foreign Minister Mr Grigory Karasin, the Deputy Head of the Investigative Committee, Mr Vladimir Piskaryov, as well other representatives of that body, the Russian Federal Ombudsman, Mr Vladimir Lukin, and the Chairman of the Council of Civil Society Institutions and Human Rights under the President of the Russian Federation, Mr Mikhail Fedotov. He also met leading officials in each of the republics visited in the North Caucasus, as well as civil society representatives throughout his itinerary.

On 6 September, the Commissioner published a report containing his observations regarding the most serious human rights problems in the republics visited in the North Caucasus Federal District, as well as recommendations on ways to find solutions to them. Despite efforts to improve the quality of life of the people living in that area, the situation continued to present major challenges for the protection of human rights. As regards counter-terrorism measures, the Commissioner referred to the continuing challenges to security in the North Caucasus, which amount to a serious ongoing crisis with consequences extending

beyond the region, as well as a test of the strength of state commitment to human rights principles. The Commissioner recalled that, while state authorities have a clear duty to protect the public from terrorism and the actions of illegal armed groups, counter-terrorism measures should be carried out in full compliance with human rights standards.

The Commissioner expressed deep concern about the persistence of allegations and other information relating to abductions, disappearances and ill-treatment of persons deprived of their liberty in the North Caucasus. He recommended the systematic application of rules for law enforcement officials against the wearing of masks or non-standard uniforms without badges, as well as against the use of unmarked vehicles, in the course of investigative activities. The Commissioner also expressed support for the proposal of the Council for Civil Society Institutions and Human Rights under the President of the Russian Federation for creating an interdepartmental federal commission to determine the fate of persons who have gone missing during the entire period of counter-terrorism operations in the North Caucasus.

The Commissioner paid particular attention to the persisting problem of impunity for serious human rights violations. At the time of writing of the visit report, the European Court of Human Rights had examined close to 200 cases in which it found violations of the right to life and/or the prohibition of torture and inhuman or degrading treatment in relation to actions of security forces in the Chechen Republic and other parts of the North Caucasus. The violations related to unlawful killings, disappearances, and torture and ill-treatment attributable to the security forces, as well as a failure to investigate such crimes effectively. The persistent patterns of impunity for such serious violations remain a source of major concern to the Commissioner.

The Commissioner formed the impression that the Investigative Committee structures at different levels had the requisite capacity for investigating complex criminal cases. However, as representatives of the Investigative Committee acknowledged, there are many cases of investigations continuing virtually indefinitely without results. Moreover, in cases where officials belonging to law enforcement agencies or other security structures are themselves implicated in crimes, the Commissioner expressed serious doubts about the extent to which the necessary co-operation with the investigative authorities could be secured in practice from those bodies. Based on his extensive discussions with the authorities, civil society, and other information at his disposal, the Commissioner found the absence of requisite determination to be one of the main obstacles to pursuing accountability in cases where the responsibility of public officials is implicated. The Commissioner therefore underlined the importance for the Russian leadership to deliver the unequivocal message that impunity will no longer be tolerated.

The Commissioner found that human rights defenders continued to face serious obstacles in their work and significant risks, and highlighted the importance of ensuring that persons and organisations engaging in human rights monitoring are able to work freely and without undue impediments. He paid tribute to the Human Rights Centre "Memorial" and other human rights organisations for their continued commitment to fulfilling their mission in the region, despite the risks and challenges involved. Finally, the Commissioner noted that human rights structures such as the institutions of regional ombudspersons and ombudspersons for children could play a key role in promoting awareness of human rights and ensuring that people living in the region are able to enjoy them fully in practice.

The Commissioner also published separately (on 9 September) a letter to the Government of the Russian Federation containing his observations related to the right to freedom of assembly. In his letter, the Commissioner noted that the prevalent view among human rights experts in the country was that the general normative framework set out in the federal legislation on assemblies broadly complies with international standards, foreseeing a notification procedure which does not require the organisers of a meeting to seek authorisation from the authorities, but rather to inform them about their intention to hold a meeting. At the same time, the Commissioner recommended to the Russian authorities to ensure consistency between the federal legislation and regulations or decisions promulgated by regional and local authorities, which at times delimited this right more narrowly or in a different spirit.

The Commissioner advised the authorities to review the legal framework with a view to including effective, foreseeable and clearly defined procedures which relate to the resolution of any disagreements which

may arise in the context of simultaneous assemblies. He also recommended that provisions on spontaneous assemblies be introduced in the legal framework, recalling that the ability to organise such events would be important when a delay might weaken the message.

The Commissioner noted that actions by law enforcement officials have on many occasions been aimed at intervening in or dispersing assemblies which are regarded by the authorities as “unlawful”, despite compliance by the organisers with the notification procedure envisaged in the law. Force has often been used – at times excessively – and participants in assemblies have been apprehended, even during peaceful events. The Commissioner recommended that a clear message be delivered to law enforcement officials at all levels that they should respect and protect the right to freedom of assembly and act lawfully in the context of such events.

Another aspect hindering the exercise of the right to freedom of assembly raised by the Commissioner related to sanctions and penalties imposed after an assembly. The principle of proportionality should apply to liability arising after an assembly. Any person charged with an offence relating to an assembly should enjoy the right to a fair trial.

### ***Visit to Italy***

The Commissioner visited Italy (Milan and Rome) from 26 to 27 May, focusing on the protection of the human rights of Roma and Sinti and migrants, including asylum seekers. During the visit, the Commissioner met with the Secretary of State of the Presidency of the Council of Ministers, Mr Gianni Letta, the Secretary of State of the Ministry of Interior, Ms Sonia Viale, and the Prefect of Milan, Mr Gian Valerio Lombardi. He also met with the President of the Extraordinary Commission for the Promotion of Human Rights of the Italian Senate, Mr Pietro Marcenaro, and representatives of the National Association of Italian Municipalities (ANCI). The Commissioner held discussions with a number of intergovernmental and non-governmental organisations. In Milan, he visited an unauthorised settlement of Romanian Roma, and a regular settlement inhabited by Italian Roma.

On 7 September, the Commissioner published a report following the above visit. He noted that the situation of Roma and Sinti in Italy remains a matter of serious concern and that a shift in focus is needed from coercive measures, such as forcible evictions and expulsions, to social inclusion, anti-discrimination and combating anti-Gypsyism. He expressed concern about racist and xenophobic political discourse against Roma and Sinti. Effective measures to counter this phenomenon are needed, including self-regulatory initiatives by political parties and a vigorous implementation of the criminal law provisions against racist offences. He further stressed the need to promote knowledge of Roma history and culture in order to combat anti-Gypsyism, for instance through the dissemination and use of the Council of Europe’s Fact Sheets on Roma History.

Cases of anti-Roma violence, sometimes perpetrated by law enforcement officials, point to a continuing need for the Italian authorities to improve their response to racially-motivated violence in general. According to the Commissioner it is necessary to improve the handling of racist offences and to combat racially-motivated misconduct by the police. In particular, the system for monitoring racist incidents and offences should be made more flexible and victim-friendly.

The Commissioner reiterated his recommendation that the Italian authorities address the situation of the many stateless Roma who came to Italy from the former Yugoslavia decades ago and their descendants, whose number is currently estimated at around 15 000. He called for a national strategy for the social inclusion of Roma and Sinti in Italy which would support the efforts of regional and local actors in this field, and suggests as an interim step the establishment of a task force at national level which would provide such support.

As regards the increased migratory flows into Italy from Northern Africa, the Commissioner found that they exposed a dire need for Italy and Europe to do more to ensure that the rights of migrants, including asylum seekers, are respected: first and foremost when it comes to their rescue at sea, but also their reception, integration and a number of legal procedures. The Commissioner urged the Italian authorities

to avoid any practices which may result in migrants being sent to places where they are at risk of ill treatment or onward refoulement.

The Commissioner's report recommends that reception conditions and access to asylum be improved, notably by extending the capacity of the housing schemes administered by the publicly-funded network of local authorities and non-profit organisations, SPRAR. In all places where they are accommodated, asylum seekers should have adequate access to legal aid and psycho-social assistance. With reference to the repatriation of Tunisian nationals through "simplified procedures", the Commissioner called on the Italian authorities to ensure that the relevant human rights safeguards, including access to procedures to challenge removal, and the prohibition of collective expulsions, are fully respected.

Finally, the Commissioner recommended improving the integration in Italian society of refugees and beneficiaries of international protection. Strengthening local authorities' capacity to provide accommodation and services is fundamental. Lastly, it was noted that it is necessary to simplify access by refugees to Italian nationality and speed up the procedure to obtain family reunification.

### ***Visit to Ireland***

The Commissioner visited Dublin from 1 to 2 June, where he delivered a keynote speech on human rights for persons with disabilities at a meeting organised by the Open Society Foundations entitled "Disability Rights: From Charity to Equality".

In the course of his stay, the Commissioner held discussions on human rights issues with a focus on the protection of vulnerable groups in times of austerity budgets. In this context, the Commissioner met with national authorities and other interlocutors, including civil society representatives. Bilateral meetings were held with the Tánaiste and Minister for Foreign Affairs and Trade, Mr Eamon Gilmore, the Minister of Justice, Equality and Defence, Mr Alan Shatter and the Minister of State with special responsibility for Disability, Equality, Mental Health and Older People, Ms Kathleen Lynch. The Commissioner also met with national human rights bodies, namely the Ombudsman, the Ombudsman for Children, the Press Ombudsman, members of the Irish Human Rights Commission (IHRC), the Equality Authority, and of the Garda Síochána Ombudsman Commission. Furthermore, upon invitation of the IHRC, the Commissioner delivered a speech to civil society organisations in Dublin, followed by discussion with the audience.

On 15 September, the Commissioner published a report on this visit. He noted administrative reforms to make government less costly, stressed the importance of national human rights structures and called on the authorities to protect their independence and effectiveness, refraining from adopting budget cuts and staff reductions which would limit the capacity and effectiveness of these institutions.

The Commissioner noted the robust legal and institutional framework in place to combat discrimination, racism and xenophobia. However he remained concerned that still no legislative change has taken place to ensure that transgender persons enjoy accurate legal recognition. Welcoming the on-going discussion on the recognition of the Traveller community as an ethnic minority group, the Commissioner urged the authorities to strengthen efforts to promote their integration, in particular by ensuring quality education, political participation and representation.

The report highlighted that despite the continuous efforts in the context of the National Disability Strategy, progress made in the area of mental health remains slow. According to the Commissioner the authorities should step up their efforts as pledged and invest in community care. They should also ensure that people with disabilities are not adversely affected by the budget crisis, in particular in terms of health care and social services.

The Commissioner has been worried by allegations of neglect and abuse of older people residing in privatised care homes. In his view, investigations into such allegations should be conducted also with a view to strengthening the protection of residents of care homes in the future. The more the aging population increases, the more important it becomes that social protection systems, health care, housing

policies and also anti-discrimination legislation including in the labour market, are suitable for older people.

The Commissioner welcomed the establishment of an inter-departmental committee to investigate possible human rights violations committed in the church-run Magdalene Laundries institutions, in which women and girls were involuntarily confined between 1922 and 1996 under apparently very harsh conditions. He encouraged the authorities to quickly put in place restorative measures for the victims and to promote reconciliation.

The Commissioner appreciated the government's efforts in fostering children's rights and considers that anchoring the principle of the best interests of the child in the Irish Constitution, as well as a complete ban on corporal punishment will strengthen child protection in Ireland. He commended the authorities' commitment to ending the imprisonment of 16 and 17 year old boys in the outdated prison of St. Patrick's and recommended that the authorities begin the process soon with a pilot group.

Finally, Commissioner Hammarberg urged the Irish authorities to improve and simplify the asylum and immigration system, ensuring transparent, speedy decision-making subject to judicial review, and taking into account internationally agreed principles, such as the right to respect for family life and the best interests of the child. In this context, the Commissioner welcomed the increased care for separated asylum-seeking children and reiterated his recommendation to assign a guardian to each separated child to enhance protection.

### ***Visit to Serbia***

The Commissioner visited Serbia from 12 to 15 June to discuss issues relating to post-war justice and reconciliation, the fight against discrimination and freedom of the media. During the visit the Commissioner held discussions with national authorities, including the Minister of Human and Minority Rights, Public Administration and Local Self-Government, Mr Milan Marković, the Minister of Labour and Social Policy, Mr Rasim Ljajić, the Minister of Culture, Media and Information Society, Mr Predrag Marković, and the Special Prosecutor for War Crimes, Mr Vladimir Vukičević. He also met with the Commissioner for Protection of Equality, Ms Nevena Petrušić, the Commissioner for Refugees, Mr Vladimir Cucić, the Ombudsman of Serbia, Mr Săsa Janković, and the Commissioner for Data Protection and Access to Information, Mr Rodoljub Šabić. The Commissioner also held meetings with international and non-governmental organisations.

In his report which followed this visit and was published on 22 September, the Commissioner expressed his concern at the limited progress made so far in domestic war-related criminal proceedings, which appears to be related to, among other things, the lack of broad, clear and unconditional political support. In this context, he called on the authorities to effectively investigate and prosecute war-related crimes and to remove all remaining obstacles to effective inter-state co-operation in this context. He further emphasised the need for adequate reparation to all victims for the gross human rights violations they suffered during the war time. The Commissioner also urged Serbia to improve the witness protection system and to promptly investigate and prosecute any threats and intimidation of witnesses.

The Commissioner invited the authorities to continue with determination their efforts, at national and regional level, to clarify the fate of the approximately 14 000 missing persons in the region due to the wars. He emphasised that the prompt and just resolution of the pending issues arising out of forced displacement due to the 1991-1999 wars is crucial for the development of social cohesion and human rights in Serbia. The Commissioner emphasised that further co-operation between the countries in the region is needed to resolve these important issues. He considered positive the commitments made in 2011 by Serbia, Bosnia and Herzegovina, Croatia and Montenegro, under the initiative of the United Nations High Commissioner for Refugees' Special Envoy for Protracted Displacement in the Western Balkans, to finally close all relevant pending issues between the four states.

The Commissioner welcomed the strengthening of the Serbian legal and institutional framework against discrimination and racism, as well as the measures taken in recent years to counter hate crimes, notably

those committed by extremist groups. Nevertheless, he urged the authorities to give priority to the prosecution of hate crimes and to undertake a comprehensive review of the court sentencing policies in these cases. He further called for an enhanced protection of national minorities and recommended allowing the election process of the members of the national minority council of Bosniaks to begin in the near future.

As regards Roma, the Commissioner underlined that more and systematised efforts should be made to enhance protection and inclusion, in particular in the sectors of employment, education, housing and healthcare. The Commissioner remained deeply concerned by the situation of Roma who remain forcibly displaced from Kosovo\* and still lack personal identity documents. He expressed his concerns about the related, persistent problem of the non-registration of Roma children upon their birth. He urged the authorities to enact legislation which would facilitate access to personal identity documents for Roma.

The Commissioner remained concerned about widespread homophobia and urged the authorities to intensify their efforts to fight violence and discrimination against LGBT persons, including by having the criminal provisions concerning hate crimes more vigorously implemented by courts.

Whilst commending the adoption of legislation protecting and promoting the rights of persons with disabilities, the Commissioner remained concerned that a number of elderly persons and adults with mental disabilities are placed in institutional care without their consent. He expressed his concern about the lack of progress in the process of deinstitutionalisation of adults with mental disabilities and the reported abuse of the legal capacity proceedings, often by close family members. The Commissioner called on the authorities to take all necessary measures, including legislative ones, to effectively resolve these problems.

Finally, Commissioner Hammarberg stressed that media freedom should be better secured and journalists should be effectively protected. He commended the authorities' prompt reactions to recent attacks on journalists, but remained seriously concerned by the impunity regarding past cases of killings of journalists and calls for effective investigations into all these violent incidents. He further stressed that defamation should be decriminalised and unreasonably high fines in civil cases relating to media should be avoided. At the same time, the media community should promote and apply ethical professional standards and develop a system of effective self-regulation. The Commissioner also emphasised that media play an important role in countering prejudice and should not perpetuate stereotypes through negative reporting concerning ethnic or religious minorities, in particular Roma. He invited the Serbian authorities to promote systematic dialogue with media professionals and relevant civil society groups in order to ensure the elimination of manifestations of anti-Gypsyism and the enhancement by media of tolerance and social cohesion.

### ***Visits to Ukraine***

In the course of a visit to Kyiv from 18 to 21 September, the Commissioner took part in a conference on the prevention of human rights violations organised by the Ministry of Justice of Ukraine in co-operation with the Council of Europe. In his speech, the Commissioner stressed the importance of implementing human rights standards in practice, and referred to the useful role that can be played by various instruments such as national action plans, data collection and analysis in the prevention of human rights violations.

On that occasion, the Commissioner met the Minister of Justice, Mr Olexandr Lavrynovych, the Deputy Minister for Foreign Affairs, Mr Pavlo Klimkin, the Chairman of the Ukrainian delegation to the PACE, Mr Ivan Popescu, the Ombudsperson, Ms Nina Karpachova, the Commissioner for Children's Rights, Mr Yuriy Pavlenko, and several parliamentarians and representatives of Ukrainian civil society. He also had a meeting with a group of representatives of civil society from Belarus to discuss the situation of human rights defenders in that country.

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\* Throughout this text, all reference to Kosovo, whether to the territory, institutions or population shall be understood in full compliance with United Nations Security Council Resolution 1244 (1999) and without prejudice to the status of Kosovo.

The Commissioner visited Ukraine (Kyiv and Simferopol) from 19 to 26 November. The main purpose of the visit was to assess the situation of the administration of justice and the level of protection of human rights in the justice system. The Commissioner paid particular attention to the ongoing reforms in the criminal justice system including issues relating to the independence and effective functioning of the judiciary, detention on remand and the observance of the right to fair trial during judicial proceedings. Other issues discussed included the situation of national minorities, freedom of assembly and freedom of expression.

In the course of the visit, the Commissioner had meetings with the Minister of Justice, Mr Olexandr Lavrynovych, the Minister of the Interior, Mr Vitaliy Zakharchenko, the Speaker of Parliament, Mr Volodymyr Lytvyn, the Head of the Security Service, Mr Valeriy Khoroshkovskiy, and the Minister of Foreign Affairs, Mr Kostyantyn Hryshchenko. He also held discussions with the Advisers to the President of Ukraine on judiciary, media and legal matters, the Deputy Prosecutor General, Mr Myhailo Havryliuk, members of the Ukrainian delegation to the Parliamentary Assembly of the Council of Europe, and representatives of the High Specialised Court on Criminal and Civil Cases, the Supreme Court and the Constitutional Court. The Commissioner's interlocutors also included the Ukrainian Ombudsman, Ms Nina Karpachova, and representatives from civil society, the legal profession and the media.

The Commissioner visited for the first time the Autonomous Republic of Crimea, where he met the leadership of the Autonomous Republic, including the Prime Minister, Mr Anatolii Mohyliov, as well as the speaker, Mr Vladimir Konstantinov, and members of the local Parliament. He also visited one of the Crimean Tatar settlements close to Simferopol, and had meetings with local civil society organisations and representatives of various ethnic communities.

The Commissioner noted the willingness of the Ukrainian authorities to pursue far-reaching reforms in the justice sector and encouraged their close co-operation with Council of Europe experts to this end. He highlighted the need to take further measures to guarantee the right to fair trial to everyone, as well as to strengthen the independence and efficiency of the judiciary. He expressed concern about the alleged cases of undue pressure on judges and underlined that their independence and impartiality should be ensured both in law and in practice. He further called on the authorities to deal, as a matter of priority, with several systemic problems in the judiciary, which include excessive delays in court proceedings, non-enforcement of domestic judicial rulings and excessive resort to preventive custody.

In Crimea, the Commissioner discussed various human rights issues relating to the situation of different ethnic and linguistic communities, including Crimean Tatars, living in the area. He acknowledged the efforts undertaken by the authorities to promote tolerance and encouraged them to pursue a constructive and open dialogue with all minority groups, with a view to preserving the unique ethnic and linguistic heritage of the region and protecting against discrimination.

Following this visit, the Commissioner will publish a report on the situation in the judiciary in Ukraine and a letter with recommendations related to the situation of national minorities in the Autonomous Republic of Crimea.

### ***Visit to Slovakia***

The Commissioner's visit to Slovakia on 26-27 September focused on the human rights of Roma, persons with disabilities and national minorities. During the visit, the Commissioner met with the Minister of Foreign Affairs, Mr Mikuláš Dzurinda, the Deputy Prime Minister for Human Rights and National Minorities, Mr Rudolf Chmel, the State Secretary of the Ministry of Labour, Social Affairs and Family, Ms Lucia Nicholsonová, the Office of the Plenipotentiary of the Slovak Government for Roma Communities, and members of the Slovak delegation to the Parliamentary Assembly of the Council of Europe. He also met with the Public Defender of Rights, Mr Pavel Kandráč, the Slovak National Centre for Human Rights, and a number of non-governmental organisations. In addition, the Commissioner travelled to Plavecký Štvrtok, where he visited the local Roma settlement and nearby school and met with the Mayor.

On 20 December the Commissioner published his report on this visit, which covers the protection of human rights of Roma and persons with disabilities. On the same day, he published a letter to the Deputy Prime Minister of Slovakia, Mr Rudolf Chmel, on the protection of the human rights of national minorities.

In his report the Commissioner called on the authorities to give priority to concrete action to counter anti-Gypsism and discrimination against Roma. He stressed that the Slovak authorities should increase their efforts to prevent the spreading of prejudice against Roma, including by promoting self-regulation within political parties and the media. The Commissioner called on the authorities to implement more thoroughly the relevant criminal provisions establishing racial motivation as an aggravating circumstance in order to address continuing reported instances of violent hate crimes targeting ethnic minorities, including Roma. He also stressed that the authorities should consider the establishment of a body, independent from the police and prosecution authorities, able to investigate police misconduct, including in cases of racial discrimination.

As regards the education of Roma children in Slovakia, the Commissioner stressed that many Roma children continue to receive education of lower quality than their non-Roma peers due to policies and practices resulting in segregation. Roma children are disproportionately placed in special schools for children with mild mental disabilities or assigned to Roma-only mainstream schools or classes. The Commissioner emphasised that there is an urgent need to address this situation by fostering inclusive education. He also expressed his concern that many Roma children are placed in institutional care solely on grounds relating to the poor housing conditions or financial situation of their family. He called on the authorities to give priority to supporting and fostering the development of the child within the family, while institutionalisation of children, including Roma children, should remain the exception.

The Commissioner also addressed the situation of the Roma families suffering from inadequate housing, including sub-standard material conditions, segregation, lack of security of tenure and difficulties in accessing social housing and gave his recommendations to the authorities in this regard. He called on the authorities at all levels to invest in the development of safe and affordable solutions for Roma in integrated communities and avoid housing programmes and practices that currently result in segregation. The Commissioner stressed that the walls separating Roma from non-Roma areas should be dismantled and never built.

The Commissioner emphasised that progress remains to be made in Slovakia in dealing with past practices and with cases of sterilisation of Roma women without their full and informed consent. He stressed that effective investigations into all such allegations and adequate punishment of those responsible must be ensured. He further stressed that this includes both adequate compensation and a public acknowledgment and expression of regret over forced sterilisations.

As regards the protection of the human rights of persons with disabilities, the Commissioner noted that many of them live in large institutions separated from the rest of society and that most children with intellectual disabilities are educated in special schools. He called on the authorities to adopt a comprehensive action plan on de-institutionalisation and make concrete advances in meeting their obligations to provide children with disabilities with inclusive education in mainstream schools. He also noted that persons with psycho-social and intellectual disabilities are often deprived of their legal capacity. The Commissioner called on the Slovak authorities to ensure that any interference with a person's legal capacity is in full compliance with international standards. In particular, he encouraged the authorities to establish a system of supported decision-making for persons with psycho-social or intellectual disabilities who need assistance to this end.

As regards the protection of the human rights of national minorities, in his letter the Commissioner called for further efforts to achieve a fair balance between the promotion of the state language and the protection and promotion of national minority languages, with the aim of preventing tensions between communities.

### ***Visit to Poland***

The Commissioner visited Warsaw from 28 to 30 September, where he delivered a keynote speech on the human rights of older persons at the 5<sup>th</sup> Warsaw Seminar on Human Rights, organised by the Polish Ministry of Foreign Affairs (see below section on Themes).

During this visit, the Commissioner met with national authorities and civil society representatives. A bilateral meeting was held with the Minister of Foreign Affairs, Mr Radosław Sikorski, followed by a joint meeting of the Minister and the Commissioner with members of Belarusian civil society including family members of human rights defenders who are currently imprisoned.

The Commissioner also met with national human rights institutions, namely the Ombudsman and the Ombudsman for Children. Upon invitation of Ms Elzbieta Radziszewska, Government Plenipotentiary for Equal Treatment and Chair of the Polish Council for Combating Racial Discrimination, Xenophobia and the Intolerance related thereto, the Commissioner attended the second session of this intergovernmental council. Furthermore, the Commissioner met with members of the Office of the Prosecutor General. Following this meeting, the Prosecutor General accepted the invitation of the Commissioner to continue the dialogue on investigations into the counter-terrorism operations of the US Central Intelligence Agency (CIA) in Poland. The Commissioner discussed these issues with two representatives of the Prosecutor General's Office on 19 and 20 December in Strasbourg.

### ***Visit to the Republic of Moldova***

The Commissioner visited the Republic of Moldova from 19 to 22 October, where he took part in the Romani Holocaust Commemoration Events, delivering a speech on the human rights situation of Roma in Europe. During the visit, the Commissioner met the Deputy Prime Minister, Mr Eugen Carpov, the Minister of Justice, Mr Oleg Efrim, the Minister of Labour, Social Protection, and Family, Ms Valentina Buliga, the Deputy Minister of Foreign Affairs and European Integration, Mr Andrei Popov, the Deputy Minister of Education, Ms Tatiana Poting, as well as the Head of the Office of Parliamentary Advocates, Mr Anatolie Munteanu, and two other members of the Office, Parliamentary Advocates Mr Tudor Lazăr and Ms Aurelia Grigoriu. In addition, he met civil society and international representatives in Chişinău, and visited Schinoasa Village, a Roma community.

Following this visit, the Commissioner will publish, at the beginning of 2012, a letter with recommendations related to non-discrimination and human rights issues related to the April 2009 events.

### ***Visit to the United Kingdom***

The Commissioner visited the United Kingdom (London and Belfast) from 8 to 14 December to discuss various issues relating to the protection of human rights in the United Kingdom, including the human rights of Roma and Travellers, the human rights of children and the situation of migrants and asylum seekers. He also discussed the follow-up given by the United Kingdom authorities to his 2008 memoranda on asylum and immigration, juvenile justice and corporal punishment. Furthermore, the Commissioner addressed issues pertaining to the priorities of the United Kingdom Chairmanship of the Committee of Ministers, as well as the current debate around the interaction of the European Convention on Human Rights and the Court with the United Kingdom's domestic legal system.

In London, the Commissioner met with the Lord Chancellor and Secretary of State for Justice, the Rt Hon Kenneth Clarke QC MP, the Minister of State at the Foreign and Commonwealth Office, Jeremy Browne MP, the Minister of State at the Home Office, Damian Green MP, and the Attorney General, the Rt Hon Dominic Grieve QC MP. He also met with a number of Members of Parliament, and in particular the All-Party Parliamentary Groups for Gypsy Roma Travellers and Human Rights.

In Belfast, the Commissioner met the Junior Minister at the Office of the First Minister and Deputy First Minister in the Northern Ireland Executive, Jonathan Bell MLA, as well as members of the Northern Ireland Human Rights Commission, including the Chief Commissioner, Professor Michael O'Flaherty.

Throughout the visit, the Commissioner also met with a large number of national and local civil society organisations active in the subject areas mentioned above as well as other human rights fields, such as the rights of persons with disabilities, children's rights, social rights and marginalised groups, freedom of the media and administration of justice.

The Commissioner also received extensive information from representatives of Roma, Gypsies and Travellers regarding the respect of the human rights of these groups in the United Kingdom, in particular in relation to housing and education, as well as the specific problems faced by Travellers in the aftermath of the evictions which took place in Dale Farm, Essex in October 2011. During the visit, the Commissioner also visited Travellers' sites in Coalisland, Northern Ireland.

The visit, which coincided with Human Rights Day, provided the opportunity for the Commissioner to speak at various public events and express his views on human rights issues of particular relevance to the United Kingdom context. These included events organised by the Equality and Diversity Forum, European Movement UK and the British Institute of Human Rights in London and by the Human Rights Consortium and Disability Action in Northern Ireland. During his stay in London, the Commissioner also launched his publication on freedom of the media (see below).

Throughout his visit, the Commissioner discussed political and other attitudes in the United Kingdom towards the European Convention on Human Rights and the Court, the Human Rights Act 1998, as well as towards human rights in general. He highlighted the important contribution of the United Kingdom to the development and promotion of human rights standards in Europe and pointed to risks arising from negative public perceptions surrounding these issues, which have their basis in misinformed views, sometimes propagated by politicians and the media. In this context, he discussed issues relating to ethical journalism with several interlocutors, including the current public inquiry into this matter. The Commissioner stressed the intrinsic value of human rights as an indispensable tool for policy-makers and the duty of public authorities to fight misperceptions concerning human rights. This lecture at the Equality and Diversity Forum is published on the Commissioner's website.

## **2 Thematic activities**

In 2011, the rule of law and impunity, freedom of the media, the human rights of persons with disabilities, non-discrimination and the fight against racism and xenophobia, the human rights of migrants and refugees, and the rights of the child were the main thematic concerns in the Commissioner's work. They were given particular attention during country visits and in the organisation of events, the preparation of thematic documents, publication of 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. The central role independent equality bodies play in the promotion of equality was highlighted by the Commissioner's Opinion on national structures for promoting equality published in March 2011.<sup>1</sup>

### **2.1 Rule of law and impunity**

The Commissioner took every available opportunity in 2011 to draw attention to the persistent scourge of impunity in high-profile criminal cases. As stated in previous activity reports, the failure to identify and punish those responsible for serious human rights violations undermines respect for the rule of law across Europe.

In 2011 the Commissioner's Office intensified its efforts in this area by developing the thematic brief on combating impunity. In particular, this brief addressed the phenomenon of politically-motivated killings for

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<sup>1</sup> CommDH(2011)2.

which genuine accountability has not yet been achieved. Several detailed case studies were prepared, including on the murders of Georgiy Gongadze in Ukraine, Elmar Husseinov in Azerbaijan, Hrant Dink in Turkey, and Natalia Estemirova in the Chechen Republic of the Russian Federation.

A common feature of the selected case studies is that the victims dared to challenge powerful politicians, organised criminals, or entrenched interests – and were subjected to threats and intimidation as a result of their professional activities. Their murders appeared to be the culmination of larger criminal conspiracies, ordered and carried out by perpetrators intent on silencing them.

The individual tragedies of these victims' deaths are compounded by suspicions of cover-ups, and by the failure to carry out prompt and effective investigations. A notable consequence is that their families are denied justice and have experienced further pain and suffering, sometimes so grave as to amount to a form of inhuman and degrading treatment inflicted by the state authorities.

In his writings on these cases, the Commissioner has encouraged other Council of Europe bodies to adopt a clear stance against impunity. A most welcome development was therefore the publication, in March 2011, of a set of guidelines of the Committee of Ministers on eradicating impunity for serious human rights violations. The Commissioner drew extensively upon these guidelines, as well as on relevant ECtHR judgments, in refining his own strategies and recommendations to combat impunity.

In a Human Rights Comment published on 29 November, the Commissioner highlighted the need to enhance the effectiveness of investigations into politically-motivated crimes. He advocated for prosecutors, whistle-blowers and witnesses in sensitive investigations to be afforded specialised mechanisms to guarantee their personal security. It must also be made clear, the Commissioner stated, that beyond the punishments served to perpetrators, state officials who knowingly tolerate impunity will also be brought to account.

On 1 June the Commissioner's Office participated in a Working Conference in London convened by the "Initiative on Impunity and the Rule of Law" under the title "Safety and Protection of Journalists: A Responsibility for the World". The event explored viable international solutions to prevent the killing and intimidation of journalists and the suppression of their professional activities, and to put an end to impunity for these crimes.

A member of the Commissioner's Office also took part in an UN Inter-Agency Meeting on the Safety of Journalists and the Issue of Impunity, hosted by UNESCO in Paris on 13 September. The meeting brought together experts from several of international organisations, as well as representatives of governments, NGOs and various legal systems. Among the measures discussed was the designation of crimes against journalists as a category of particular seriousness for society, transcending "ordinary crime" – notably as a means of overcoming impunity.

Several of the Commissioner's country visits and reports in 2011 emphasised the need to combat impunity and promote rule of law as an element of the effective administration of justice. On his visit to Yerevan in January, the Commissioner met with the President and Prosecutor General of Armenia to urge more consequential investigations into the events of March 2008, including the ten deaths that occurred during demonstrations. In his subsequent report in May, the Commissioner stated that combating impunity would also help to heal the society's wounds.

Following his visit to Georgia in April, the Commissioner dedicated a section of his report to efforts to combat impunity in that country. The Commissioner laid special emphasis on the importance of independent and rigorous investigations into allegations of ill-treatment or abuse of power by law enforcement officials.

On his visit to the Russian Federation in May, which included an extensive programme in the North Caucasus, the Commissioner repeatedly raised concerns about impunity. In several cases of disappearances, and in respect of allegations of illegal detention and torture, the Commissioner identified the absence of requisite determination on the part of competent authorities to be one of the main

obstacles to pursuing accountability, particularly where public officials were implicated. In his report on the visit in September, the Commissioner stressed the importance of unequivocal messages from the Russian leadership that all forms of impunity will no longer be tolerated.

During his October visit to Turkey, the Commissioner assessed impunity as it results from problems in the judiciary, including unfair trials and the lack of impartiality and adversariality.

Finally the Commissioner released two Human Rights Comments in early September to coincide with the tenth anniversary of the 11 September terrorist attacks. Both texts emphasised the need for European countries to account for torture and other abuses committed in the “global war on terror”, and of their participation in CIA rendition and detention operations. The Commissioner highlighted the lack of credible and effective accountability efforts, particularly in respect of three countries known to have hosted CIA “Black Sites”, or clandestine prisons – Lithuania, Poland and Romania. The Commissioner criticised Europe’s grant of effective impunity, and remarked that in the long term it is intolerable to leave such abuses unchecked.

## **2.2 Freedom of the media**

Media policy – in relation to freedom of expression and the protection of individual integrity – has been one of the major themes on which the Commissioner’s work focused in 2011.

To raise awareness about the need for free, independent and pluralistic media, and because of the strong connection between media freedom and other human rights, a series of *Media Freedom Lectures* was launched during 2011. Six themes were chosen, corresponding to the broader concerns that have emerged in relation to freedom of expression in the course of the Commissioner’s work: ethical journalism; access to official documents; protection of journalists from violence; public service media; social media; and media pluralism. Eight experts were invited to present their personal assessments of trends and problems concerning one of these topics. Their assessments were compiled in a publication entitled *Human Rights and a Changing Media Landscape* launched in London on 8 December. In his foreword, the Commissioner draws specific conclusions concerning each topic and underlines that there is a need for stronger protection of media freedom and freedom of expression in Europe today. The purpose of the book is to contribute to a more thorough public debate on media developments and their impact on human rights in a constantly changing media landscape.

During his visits to member states, the Commissioner also continued to discuss media issues with government representatives.

Following his visit to Budapest in January, the Commissioner expressed concerns at Hungary’s media legislation which was adopted in 2010. In his Opinion on the media legislation, published in February, the Commissioner made several recommendations to the Hungarian authorities, including the repeal or revision of a number of media law provisions. He concluded that the wide range of problematic provisions in Hungary’s media legislation coupled with their mutually reinforcing nature result in an unfortunate narrowing of the space in which the media can operate freely in Hungary – a comprehensive revision of the media law package as a whole was therefore highly recommended. The concerns expressed in the Opinion remain valid after the adoption of a number of amendments by the Hungarian Parliament on 7 March 2011.

In the report on Armenia published in May, the Commissioner highlighted the importance of the principle of pluralism in the audiovisual media spectrum, which also applies when taking licensing decisions for broadcasting media. He further encouraged the promotion of ethical journalism and the development of a system of effective self-regulation.

Following his visit to Turkey in April, the Commissioner published a report on freedom of expression and freedom of the media in Turkey on 12 July, on the basis of which a constructive dialogue with the authorities has been pursued. The Commissioner notably drew attention to the very large number of judgments of the European Court of Human Rights finding violations of freedom of expression by Turkey

and considered that the Turkish authorities had not sufficiently addressed the underlying causes of these violations.

In the report on Serbia published in September, the Commissioner commended the authorities' prompt reactions to recent attacks on journalists, but remained seriously concerned by the impunity regarding past cases of killings of journalists and called for effective investigations into all these violent incidents. The Commissioner also emphasised that media plays an important role in countering prejudice and should not perpetuate stereotypes through negative reporting concerning ethnic or religious minorities, in particular Roma.

Issues relating to freedom of expression were also raised in observations on the human rights situation in Azerbaijan made public in September, one year after the previous report.

On 5 October, a public discussion on the protection of journalists took place in Strasbourg, in memory of Anna Politkovskaya, journalist at Novaya Gazeta who was murdered in October 2006 in Moscow. In addition to the Commissioner, the speakers included Dunja Mijatović, OSCE Representative on Freedom of the Media and Sergey Sokolov, Deputy Editor in Chief of Novaya Gazeta.

The Commissioner also published several Human Rights Comments about media freedom issues, such as the protection of journalists, ethical journalism, public service media and pluralism, access to official documents and social media. In connection with this, the different chapters of the aforementioned book *Human Rights and a Changing Media Landscape* were published on the Commissioner's website in the form of Issue Discussion Papers.

During 2011, good contacts were maintained with the OSCE, in particular the Office of the Representative on Freedom of the Media, the International Federation of Journalists, and NGOs working in this field. Co-operation is also established with the Parliamentary Assembly and the European Parliament on this theme. In March, the Commissioner participated in a panel and discussion on the media freedom situation in the European Union organised by the President of the European Parliament's MEDIA intergroup, Mr Jean-Marie Cavada. A representative from the Office of the Commissioner was present at the hearing organised by the PACE Sub-Committee on the media on 12 September in Stockholm.

In November, a member of the Commissioner's Office participated in an expert consultation meeting entitled "Safety of Journalists: Towards a more effective international protection framework", organised by the Austrian Federal Ministry for European and International Affairs in Vienna.

### **2.3 Human rights of persons with disabilities**

Despite some legislative progress, in 2011 the situation of persons with disabilities remained precarious in many Council of Europe member states. The entry into force of the UN Convention on the Rights of Persons with Disabilities (CRPD) in May 2008 has given new impetus to protecting and promoting the human rights of these persons in recent years. In 2011, with the exception of Liechtenstein and Switzerland, all member states of the Council of Europe had either signed or ratified the Convention. However, the implementation of the rights enshrined in the CRPD and other international standards, including the Council of Europe Disability Action Plan, remains far from satisfactory. The Commissioner is especially concerned about the situation of persons with psycho-social and intellectual disabilities, who constitute a particularly stigmatised and vulnerable group that suffers the consequences of this implementation gap in both legislation and practice.

On 11 March, the Commissioner held a meeting on the rights of persons with mental disabilities in Strasbourg. The meeting brought together a small number of experts in disability law and the human rights of persons with mental disabilities. The participants identified the following as the areas where significant gaps remained and further action was especially needed: participation in political life, in particular voting rights; the role of national human rights structures in the promotion and protection of the human rights of persons with mental disabilities; issues relating to the exercise of legal capacity; the right to independent living/de-institutionalisation.

The Commissioner decided to commission two issue papers from independent experts on the two latter subjects, which are covered by Articles 12 and 19 of the CRPD respectively. As the entry into force of the CRPD is recent and the exact scope of these Articles is still being defined, these issue papers will aim to inform the public, as well as the authorities and non-governmental organisations working in the field of human rights, about the major human rights concerns in the implementation of accepted standards and suggest ways to tackle these questions. The issue papers in question are scheduled to be published at the beginning of 2012.

On 22 March, the Commissioner published a Human Rights Comment on the right to vote of persons with disabilities. He drew attention to Article 29 of the CRPD and the paradigm shift it represents in empowering persons with disabilities, including mental disabilities, to participate in political life. The Commissioner referred to the ruling of the European Court of Human Rights in the case of *Kiss v. Hungary*, where a blanket, automatic removal of the right to vote of a person placed under partial guardianship for a mental disability was found to be in violation of the European Convention on Human Rights. In this comment, the Commissioner argued that under the CRPD, the states have the obligation to go even further, as there is no room under this Convention for procedures in which judges or medical practitioners would assess the voting competence of a person. He added that this would amount to blatant discrimination, as persons without disabilities are not tested for their capability to vote. The Commissioner reminded states of their obligation to recognise that persons with disabilities should enjoy their electoral rights and participate in political life on an equal basis with others, stressing the need for European societies to adapt to and accommodate the needs of persons with disabilities. The Commissioner notes that the Committee of Ministers also endorsed this approach in its Recommendation Rec(2011)14 on the participation of persons with disabilities in political and public life, which was adopted on 16 November.

Also in March, the Commissioner provided the foreword for a publication of the Mental Disability Advocacy Center on Guidelines on Article 33 of the CRPD, which concerns the obligation of states parties to designate focal points and create independent national mechanisms to promote and monitor the implementation of this Convention. The Commissioner referred to many problems he observed across Europe, in particular in segregated institutions, where persons with disabilities with very different needs are often mixed up and where very little, if any, habilitation and rehabilitation is provided. He stated that genuine monitoring would require close involvement of the disability rights movement and a listening attitude on the part of the authorities.

On 1 June, the Commissioner delivered a keynote speech on the human rights of persons with disabilities at a meeting organised by the Open Society Foundations in Dublin, entitled "Disability Rights: From Charity to Equality". In his speech, the Commissioner underlined that people with disabilities are active subjects and productive members of society with equal rights, despite the fact that they have long been treated as objects of pity and charity. He referred to the CRPD as the crowning achievement of this shift in thinking, which happened largely thanks to the efforts of the disability rights community. He emphasised however that the implementation of the Convention was still lacking in Europe, pointing to the particular risks posed by the impact of the recent economic crisis and austerity budgets.

On 18 October, the Commissioner submitted written observations to the European Court of Human Rights on a case concerning the treatment of a person with disability in Romania. It is the first third party intervention submitted on his own initiative since the entry into force of Protocol No. 14 to the European Convention on Human Rights. The case has been lodged by the Centre for Legal Resources on behalf of Valentin Câmpeanu, a young man of Roma ethnic origin, suffering from a severe learning disability and infected with the HIV virus, who died at the age of 18 at a Psychiatric Hospital in Romania, after having spent all his life in institutions. In his intervention, the Commissioner concentrated mainly on the standing requirements before the Court and the additional obstacles faced by persons with disabilities in accessing justice. He argued that a strict application of standing requirements to persons with disabilities would have the undesired effect of depriving a particularly vulnerable group of people of any reasonable prospect of seeking and obtaining redress for violations of their human rights. It would also run counter to the objective of preventing the occurrence or recurrence of human rights violations by the states parties to

the European Convention on Human Rights. The Commissioner therefore considered that in exceptional circumstances, NGOs should be allowed to lodge applications with the Court on behalf of victims, arguing that this would be fully in line with the principle of effectiveness in which the Convention is grounded.

Finally, on 4 November the Commissioner participated in a roundtable discussion organised by the Mental Disability Advocacy Center on evolving standards in preventing torture and ill-treatment against persons with disabilities. Other attendees included representatives of the Committee for the Prevention of Torture, the Subcommittee on Prevention of Torture of the UN Optional Protocol to the Convention against Torture, the UN Committee on the Rights of Persons with Disabilities and various NGOs as well as academics. The discussion concerned the standards of the CRPD and their impact on the work of existing monitoring bodies, as well as the relationship between these bodies, the national preventive mechanisms required under the UN Optional Protocol to the Convention against Torture, and new mechanisms to be set up under Article 33 of the CRPD.

The protection of the rights of persons with disabilities has also been in focus in the Commissioner's country-monitoring work in 2011, notably during his visits to Ireland (1-2 June) and Slovakia (26-27 September), and in the reports that he published following these visits in 2011. Among the issues raised by the Commissioner feature: the right to live independently and be included in the community, including progress towards de-institutionalisation; the right to be educated in an inclusive environment; legal capacity; and the impact of austerity budgets on the rights of persons with disabilities.

## **2.4 Human rights of Roma and Travellers**

As a result of persisting serious challenges in the field of securing the enjoyment by Roma and Travellers of their human rights throughout Europe, the Commissioner continued to target special efforts in this area in 2011. In a speech he delivered at a Conference in Chişinău on "*The Romani Holocaust and Cotemporary Challenges: Tackling Discrimination and Human Rights Abuse of Roma*" in October, the Commissioner underlined the links between the history of Roma people, the deeply-rooted anti-Gypsyism to which they are still overwhelmingly subjected and the discrimination and marginalisation which characterises their position across Europe today. Given the interdependence of the factors that result in the seriously sub-standard human rights situation of many Roma in Europe, the Commissioner concluded that an effective government's response can only take the form of systematic human rights work, which addresses all aspects in a manner that is both comprehensive and long-term.

European states should adopt comprehensive and adequately resourced strategies to improve the situation of Roma. These strategies should recognise the complementarity of inclusion and anti-discrimination. In particular, they should make clear that the responsibility for Roma inclusion rests to a considerable extent on the majority population. As a result, Roma inclusion measures should include both measures targeted at the Roma population (in particular positive measures) and measures targeted at the majority population (notably to reduce anti-Gypsyism and discrimination). It is important that reasonable progress is made on all areas at the same time, and that no area is neglected.

National strategies should put a strong emphasis on the importance of local authorities' involvement in Roma inclusion. In this connection, the Commissioner stresses that the Summit of Mayors on Roma held in Strasbourg on 22 September, which inaugurated an alliance of cities and regions for Roma inclusion, is a useful initiative.

An effective legal and institutional framework to counter discrimination and anti-Gypsyism is paramount. This includes in particular effective anti-discrimination legislation and independent and adequately resourced national equality bodies that can assist with the implementation of this legislation. Extensive guidance is available on these aspects and governments should make the most of it. The legal framework must be completed through ratification of Protocol No. 12 to the ECHR (which provides for a general prohibition of discrimination) and adequate provisions against hate speech, which must also be effectively implemented. The case law of the Strasbourg Court regarding cases of discrimination against Roma – for instance, on segregated schooling and on anti-Roma violence – should be fully executed and more actively disseminated.

Participation of Roma must be ensured. They must be key partners in the designing, implementation and monitoring of policies regarding them at local and national level. In co-operation with them, the most appropriate ways of collecting quality, long-term data disaggregated by ethnicity must be devised. Without this data – and without a fair use of it by public authorities respecting data protection systems - it is virtually impossible to assess the effectiveness of measures taken for Roma inclusion or progress achieved. Therefore, securing durable advances becomes all the more difficult.

It should be ensured that the best possible use is made at national level of funding opportunities available, notably EU funds. This includes securing a satisfactory absorption capacity, but also monitoring that the funds are actually used for the purposes for which they were allocated.

Throughout 2011, the Commissioner continued to draw the attention of member states to specific areas where resolute action is particularly important. Thus, the need to counter anti-Gypsyism in public, including political and media discourse was the subject of two Human Rights Comments he published on 28 June and 7 July respectively. In the first one (*“Politicians using anti-Roma rhetoric are spreading hatred”*) the Commissioner recalls that politicians should feel responsible for combating discrimination and building bridges across different parts of society. They should avoid using stigmatising speech against Roma and Travellers and feeding age-old stereotypes against these communities. By setting the example for prejudice and discrimination, politicians who resort to this type of speech are exposing Roma and Travellers to human rights abuses and frustrating the efforts made by the Roma communities themselves to break out of their marginalisation and relate positively to the rest of society. In the second Human Rights Comment (*“European media and anti-Gypsy stereotypes”*), the Commissioner recalls that while the media has an important role to play in countering prejudices, a number of European journals and broadcast media have not lived up to this responsibility when it comes to Roma and Travellers. Instead, they have contributed to xenophobia through biased reporting and cheap sensationalism. Ethical journalism and self-regulation must be promoted, and media outlets that serve the Roma communities must be supported. It is also important that more Roma journalists can find their way into mainstream media.

The Commissioner also continued to highlight the problem of Roma statelessness and specific difficulties Roma encounter when exercising their freedom of movement or trying to secure international protection. In a Human Rights Comment published on 2 August (*“Several hundred thousand people in Europe are stateless – they need extra protection”*) the Commissioner recalls that an important number of stateless persons in Europe are Roma, particularly in the countries of ex-Yugoslavia and that some, who have moved from that region to other parts of Europe, are living as *de facto* stateless since they lack personal documents. For instance, there are approximately 15 000 persons in this situation in Italy. Another Human Rights Comment published on 22 November (*“The right to leave one’s country should be applied without discrimination”*) addresses the measures that countries in the Balkans have taken to prevent their citizens from travelling to the EU and applying for asylum there, in an attempt to preserve the visa-free regime with the EU. The Commissioner notes that these measures have in practice affected Roma particularly and jeopardised their human rights to leave their country and to seek asylum.

These and other areas relating to the protection of the human rights of Roma and Travellers were extensively covered in the Commissioner’s country-monitoring work in 2011 and in particular in the reports on Bosnia and Herzegovina, the Czech Republic, Ireland, Italy and Serbia as well as in the letters sent by the Commissioner to the authorities in Slovenia and Spain. Issues relating to the protection of the human rights of Roma were also extensively covered in the visit the Commissioner carried out in Slovakia at the end of September. The report following this visit was published on 20 December.

In 2011 the Commissioner also finalised a report on the human rights of Roma and Travellers in Europe. The report, which is scheduled to be published in February 2012, provides an outline of the position of Roma and Travellers with respect to a number of rights and thematic areas and covers all member states of the Council of Europe. The areas reviewed in the report include: anti-Gypsyism; racially motivated violence; conduct of law enforcement and judicial authorities; respect for private and family life (including forced sterilisations, removal of children from the care of their biological parents and common law and

customary marriage); trafficking; economic and social rights (including education, housing, employment, health, social security and access to goods, services and public places); statelessness and gaps in personal documentation; freedom of movement and international protection; and participation in public life and decision-making processes.

## 2.5 Human rights of asylum-seekers and immigrants

In 2011, the human rights of immigrants, asylum-seekers and refugees continued to be high on the Commissioner's agenda, not least in the light of the political developments in Northern Africa.

In February, the Commissioner organised, in co-operation with the Turkish Chairmanship of the Committee of Ministers, a two-day seminar on "Human Rights dimensions of migration in Europe". The event was attended by European migration experts from governments, intergovernmental and non-governmental organisations, and academics. It provided an opportunity for a substantive, in-depth discussion on the most important discrepancies between European migration laws and practices and Council of Europe and international human rights standards. In addition, the discussion focused on optimal ways in which more assistance may be provided to member states in reflecting on and revisiting their migration policies.

The continuing migrants' deaths while attempting to cross the Mediterranean prompted the Commissioner to publish in June a Human Rights Comment entitled "African migrants are drowning in the Mediterranean", in which he called upon European governments and institutions to take on their responsibilities in relation to rescue at sea. During his visits to Malta and Italy in 2011, the Commissioner discussed the challenges resulting from the increase in arrivals, following the political unrest and armed conflicts in Northern Africa, for the already strained asylum systems of these countries. He emphasised the need to fully respect international obligations, including the principle of *non-refoulement*, ensuring effective access to asylum procedures and adequate reception conditions.

In his report on Italy, published in September, the Commissioner expressed concern at the conclusion in June 2011 of a Memorandum of Understanding aimed at combating irregular immigration between Italy and the Libyan National Transitional Council (NTC). He expressed his disapproval, as he had in the past, of bilateral or multilateral agreements for the forced return of irregular migrants to countries with long-standing, proven records of torture and where a highly volatile security situation persists, as is currently the case in some parts of Northern Africa. The Commissioner's concerns also apply to the European Union's plan to continue the negotiations towards the conclusion of a Framework Agreement with the Libyan NTC, including in the field of migration. The Framework Agreement should not put migrants, including asylum-seekers, at risk of being ill-treated or once more deported to other countries where they are exposed to such a risk, without an individual assessment of their case.

In relation to forced returns of migrants, including of asylum-seekers in the context of the EU 'Dublin Regulation', the Commissioner welcomed the 2011 judgment of the Grand Chamber of the European Court of Human Rights in the case of *M.S.S v. Belgium and Greece*, in which he had intervened as a third-party in 2010. In connection with this judgment, a number of European states have suspended returns of asylum-seekers to Greece. Also, during his visit to Bosnia and Herzegovina, the Commissioner reiterated his concern at the forced return of Roma who had resided for a long period of time in Council of Europe member states to Kosovo, where the current situation is not conducive to integration and may lead to violations of a number of basic human rights.

The Commissioner continued to raise his concerns with regards to the increased use of detention for migrants. In his report on Malta, published in June, he addressed the issue of the mandatory detention of irregular migrants, including asylum seekers, and called upon the authorities to fully implement the important judgment issued by the European Court in the case of *Louled Massoud v. Malta*. The Commissioner also published a Human Rights Comment in February calling on European states to refrain from detaining migrant children. While there is in every member state a minimum age at which a child may be detained for a criminal offence, such rules do not exist in migration cases, and new-born babies are regularly detained with their parents, at times in inhumane conditions. Alternative solutions exist and

the Commissioner welcomed the policy changes which took place for instance in Belgium and the United Kingdom.

The vulnerability of irregular migrants, especially children, remained of particular concern to the Commissioner. In April he published a letter addressed to the Turkish Minister of Education, reiterating his previous recommendation to the authorities to ensure access to education for all migrant children, irrespective of their legal status, and to remove legal obstacles preventing children of Armenian migrant families from attending the private schools of the Armenian minority in Turkey. The Commissioner was informed that following this communication with the Turkish authorities, administrative measures were adopted allowing Armenian migrant children, irrespective of their legal status, to attend schools of the Armenian community.

The further tightening of migration policies in many member states impacts also on the family life of refugees and immigrants. The Commissioner published in February a Human Rights Comment entitled “Restrictive laws prevent families from reuniting” in which he highlighted the increased difficulties and at times unreasonable requirements experienced by immigrants in Europe. When it comes to assessing the age of migrant children, the Commissioner encouraged governments to develop multidisciplinary and child-sensitive age assessment methods and to refrain from using imprecise X-ray tests, unless absolutely necessary.

As regards racism and xenophobia in Europe, these must be combated more forcefully throughout the continent. The setting up of effective measures to facilitate the local integration of refugees and other beneficiaries of international protection is a step in the right direction, and was noted in the Commissioner’s reports concerning his visits to Italy and Malta.

In 2011 the 50th anniversary of the 1961 UN Convention on the Reduction of Statelessness, ratified by only 38 states, was commemorated. Two highly relevant Council of Europe instruments, the 1997 Convention on Nationality and the 2006 Convention on the Avoidance of Statelessness in relation to State Succession, have also not been widely ratified. In a Human Rights Comment entitled “Several hundred thousand people in Europe are stateless – they need extra protection” published in August, the Commissioner encouraged the signature of these important treaties and pointed out that not having a nationality means being marginalised and negatively affects the enjoyment of many rights. He also addressed the issue of de facto stateless Roma during his visit to Italy in May and expressed his concern at the significant number of stateless Roma in the region of the former Yugoslavia, urging the authorities to take additional measures to facilitate access to citizenship by Roma, especially children. In a letter sent to the Slovenian Prime Minister in May, the Commissioner raised the situation of the persons ‘erased’ in 1992 from the register of permanent residents, some of whom became stateless. He encouraged the government to initiate discussions aimed at creating effective reparation mechanisms for the ‘erased’.

Lastly, as regards refugees and other displaced persons in former Yugoslavia, in his report following his visit to Bosnia and Herzegovina, published in March, the Commissioner urged the authorities to rapidly find durable solutions for the persons still living in collective centres and to take all necessary measures to enable displaced persons and returnees to fully enjoy their rights. In his report following his visit to Serbia, published in September, the Commissioner reiterated that the prompt and just resolution of the pending issues arising out of forced displacement is crucial for the development of social cohesion and human rights. He also expressed hope that the commitments made in 2011 by Serbia, Bosnia and Herzegovina, Croatia and Montenegro, under the initiative of the United Nations High Commissioner for Refugees’ Special Envoy for Protracted Displacement in the Western Balkans, would help to finally close all relevant pending issues between the four states.

## **2.6 Discrimination on grounds of sexual orientation and gender identity**

The major event in 2011 in this thematic area was the publication of the report “Discrimination on grounds of sexual orientation and gender identity in Europe” on 23 June. The report, based on two years of socio-legal empirical research, provides a broad overview of the human rights situation of lesbian, gay, bisexual and transgender (LGBT) persons in Europe. It identifies serious flaws in law and practice as well as some

positive developments in member states. The six thematic chapters focus on access to civil and political as well as social, economic and cultural rights and the obstacles LGBT persons face in enjoying these human rights. The report contains 36 conclusions with recommendations for further action by member states. It is available in English, French and Russian with summary translations in Turkish, Croatian and Bosnian/Serbian.

High level governmental representatives of the 47 member states attended the 23 June launch of the report. Some of them addressed the participants, including Rt Hon Dominic Grieve, QC MP, Attorney General for England and Wales, Ms Sabine Leutheusser-Schnarrenberger, Minister of Justice of Germany, Mr Jasenko Selimović, State Secretary, Ministry of Employment of Sweden and Mr Lionel Veer, Human Rights Ambassador, the Netherlands. Interventions were also made by representatives of the Office of the UN High Commissioner for Human Rights, the Parliamentary Assembly of the Council of Europe, the European Commission, the European Union Fundamental Rights Agency and the World Health Organization. Finally, representatives of ILGA-Europe and Transgender Europe delivered statements in support of the report. All statements are available on the Commissioner's website.

The publication of the report was followed up by a wide range of activities to further disseminate the report. Presentations were made at meetings of the UNHCR, and for staff of the OHCHR (Geneva) in June 2011 as well as during an expert meeting on hate crimes against LGBT persons which took place in Prague in August in the context of the first 'Prague Pride' festival.

On 22 and 23 September, a joint roundtable was organised in Vienna by the European Union Agency for Fundamental Rights (FRA) and the Commissioner's Office. The roundtable, entitled "Rights to equality, life and security of the person: bridging the gap for transgender people", brought together representatives of member states, NGOs, equality bodies and Ombudsman institutions. It aimed to increase the awareness of the findings and conclusions of both the FRA's and the Commissioner's reports in the area of LGBT rights as well as to share and disseminate examples of 'good practices' and solution-oriented policies from various member states aimed at ensuring safety and improving equality for transgender people.

On 28 and 29 September, the Office of the Commissioner presented the report during the workshop "*The role for NHRs in the protection against and prevention of all forms of discrimination*" in Sarajevo, which was hosted by the Human Rights Ombudsman of Bosnia and Herzegovina. On 6 October eight Council of Europe member states hosted a 'side event' on the report during the annual Human Dimension Implementation Meeting (HDIM) of the Organization of Security and Cooperation in Europe (OSCE) in Warsaw. A representative of the Office of the Commissioner for Human Rights was invited to give a presentation on the report. The report was also presented at the annual conference of ILGA- Europe "*Human Rights and "Traditional Values": clash or dialogue?*" which took place in Turin, on 27-30 October.

The Office of the Commissioner organised a Roundtable with government representatives (24 November, Bern) in conjunction with the meeting of the European Network of LGBT focal points. The meeting was hosted by the Swiss Ministry of Foreign Affairs and brought together over 30 governmental experts who discussed practical implementation by governments of the Commissioner's Recommendations.

Apart from the work conducted for the study report, the Office of the Commissioner continued regular monitoring of the human rights situation of LGBT persons. In his report on the Czech Republic (published on 3 March) the Commissioner called upon the authorities to consider extending protection against hate crimes by ensuring that all grounds on which hate crimes are committed, including sexual orientation, are equally covered. In his report on Ireland (published on 15 September), he welcomed the commitment of the Irish authorities to introducing legislation on legal gender recognition and called upon the government to ensure without further delay that transgender persons can obtain a birth certificate reflecting their actual gender. In his report on Serbia (published on 22 September) and Bosnia-Herzegovina (published on 29 March) he raised the issue of deeply rooted homophobia and hate speech in society. He called on the Serbian authorities to increase their efforts aimed at fighting violence and discrimination against LGBT persons, including a more vigorous implementation by courts of the criminal provisions concerning hate crimes.

### **3 Human Rights Defenders**

#### **3.1 Country situations and dialogue with authorities**

In 2011, the Commissioner continued to address 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. The Commissioner also stressed the importance for human rights defenders of participating in decision-making processes and to be consulted by authorities, including on legislation and policies relevant to human rights.

In relation to his visits to Turkey in April and October, the Commissioner raised concerns about the number of attempts at intimidation, attacks and murders perpetrated against journalists and human rights defenders. Recalling in particular the judgment of the European Court of Human Rights regarding the murder of Hrant Dink, the Commissioner urged the Turkish authorities to increase their efforts to protect journalists from and conduct effective investigations into such acts. The Commissioner also noted that criminal proceedings continue to be brought against journalists, writers and human rights defenders on the basis of a number of provisions of the Turkish Criminal Code.

In the report on his visit to the Russian Federation (12-21 May) focusing on the human rights situation in the North Caucasus, the Commissioner found that human rights defenders continued to face serious obstacles in conducting their work, including threats to their personal safety. He stressed the responsibility of authorities to ensure that persons and organisations engaging in human rights monitoring are able to work freely and without impediments. The Commissioner expressed concern about negative statements by some authorities which perpetuate the notion that human rights organisations are “enemies of the State”. He reiterated his serious concerns about the lack of appreciable results in the investigation into the 2009 murder of Natalia Estemirova and called for all allegations of violations against human rights defenders to be properly investigated and the perpetrators held accountable. The Commissioner also emphasised the need for dialogue between authorities and human rights defenders.

In September, the Commissioner published his observations on the human rights situation in Azerbaijan as regards the freedoms of expression, association and peaceful assembly, and pointing at the necessity to comply with his earlier recommendations. The Commissioner noted with regret the recurrence of selective and unjustified criminal prosecution of journalists or those expressing critical opinions, as well as the increasingly difficult environment in which national and international NGOs have been forced to work. The Commissioner referred specifically to the closure of the branch of the Human Rights House Foundation in Azerbaijan in March and the demolition of a building housing several human rights organisations, including the Office of the Institute for Peace and Democracy in August.

The Commissioner also paid particular attention to situation of human rights defenders in Belarus, which sharply deteriorated in the aftermath of the December 2010 elections, a period marked by increasing harassment of civil society actors, including human rights defenders, lawyers and the media, as well as the introduction of restrictive legislative amendments in addition to those already criminalising membership in non-registered NGOs and which have been used as an instrument for exerting pressure and control over human rights actors. The situation of the Human Rights Centre *Viasna* - which has been not allowed to register since 2003 - and the criminal case launched against its chairman Ales Bialiatski illustrate the gravity of the situation in the field of freedom of association (including the possibility for human rights organisations to have access to funding), freedom of peaceful assembly, freedom of expression and integrity of human rights defenders.

#### **3.2 Round Table on Human Rights Defenders in the Council of Europe area**

The Commissioner’s Office organised a Round Table on Human Rights Defenders in the Council of Europe area on 27 and 28 October in Strasbourg. Participants included representatives of international

and regional inter-governmental organisations and international NGOs, and over 30 human rights defenders from different parts of the Council of Europe area.

Human rights defenders spoke of the threats and attacks that affect both the environment in which their organisations operate and them as individuals, and which can amount to serious impediments to their work to protect human rights. Denigration campaigns and negative coverage by the media, authorities and non-state actors were reported by participants, as well as the use of defamation and libel criminal charges against defenders, restrictive control of the internet and obstacles to travelling. Human rights defenders expressed great concern about the lack of effective investigation into cases of disappearances and killings of defenders, which amounts to impunity for those who order and perpetrate such crimes. The environment for defenders varies in different parts of the Council of Europe area, and threats or attacks can sometimes take a more subtle form. Human rights defenders recommended working more intensively with the media on human rights issues, promoting human rights education and enhancing solidarity amongst defenders.

When assessing their co-operation with National Human Rights Structures (i.e. Ombudsman and equality bodies, human rights commissions and national preventive mechanisms under the UN OPCAT), some human rights defenders pointed out that NHRs were not always independent from executive and legislative powers and/or had an insufficient impact on the human rights situation. The need to conduct an independent assessment of the work of NHRs was raised, and the recent tendency to merge different NHRs and cut their resources in some countries was mentioned as a source of concern. Various participants considered it necessary for human rights actors to participate in the process of selection of NHRs, in particular Ombudsmen. At the same time, defenders acknowledged that their advocacy in the human rights field has a greater chance of success when they are acting together with NHRs and the media.

Human rights defenders assessed the different ways and channels to participate in decision-making and public consultation processes. On the one hand, there have been some positive examples of defenders and NGOs contributing to the drafting and discussion of legislation in co-operation with executive and legislative authorities. On the other, the fast-track adoption of laws, the high volume of legislation to be examined, the short periods dedicated to consultation with the public and other factors impede the participation of defenders and can be reflective of a lack of transparency in decisions which affect the public. Participants recommended the introduction of adequate procedures for consultation with civil society actors allowing their involvement at an early stage of the legislative drafting process, and co-operating more intensively with the media as well as other actors.

### **3.3 Other events and activities**

On 17 June, the Office of the Commissioner held an informal meeting with representatives of the Inter-American Commission on Human Rights, the Inter-American Court of Human Rights, and the European Court of Human Rights to discuss the process of granting and implementing precautionary, provisional and interim measures in relation to human rights defenders and journalists facing grave and imminent risk of irreparable damage.

The Office of the Commissioner participated in a teaching cluster of the Venice School of Human Rights dedicated to "Human Rights as Our Responsibility" with a focus on human rights defenders, organised from 30 June to 9 July. A representative of the Office conducted a workshop on the "Role of human rights defenders in Europe: challenges and opportunities", which addressed the difficulties human rights defenders face in their work and outlined the existing mechanisms and programmes for the creation of a favourable work environment for defenders.

The exhibition "Andrei D. Sakharov: Alarm and Hope", which was launched in 2010, was displayed in Poland, Armenia, the Republic of Moldova, Portugal, Russia, the United Kingdom (Scotland), and Ukraine.

## **4 Co-operation with European and international bodies**

### **4.1 General**

The Commissioner for Human Rights continued to consult and co-operate with his main international partners throughout 2011. This co-operation took the form of bilateral meetings, informal contacts and exchanges of information as well as co-operative 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).

### **4.2 European Union**

During 2011, the Commissioner pursued his regular meetings with members of the European Commission and representatives of the EU Council with duties related to human rights.

In March, the Commissioner met with Baroness Catherine Ashton, Vice-President of the European Commission and High Representative of the Union for Foreign and Security Policy. The Commissioner and the High Representative exchanged views on the human rights situation in Albania, Kosovo\*, Georgia, Azerbaijan, the Republic of Moldova and Ukraine.

In March, the Commissioner met with Ms Neelie Kroes, Vice-President of the European Commission and Commissioner for Digital Agenda. They held an exchange of views on media freedom in general and also discussed issues relating to Hungary's recent media legislation.

In May, the Commissioner met with Ms Viviane Reding, Vice-President of the European Commission responsible for Justice, Fundamental Rights and Citizenship, and discussed issues related to Roma, regulation of the media and access to complaints mechanisms. The need for co-ordination of complementary human rights competences among international organisations was highlighted in the talks.

In October, the Commissioner met with Ms Cecilia Malmström, the Commissioner for Home Affairs. The Commissioners discussed the situation of asylum seekers and the EU asylum policy and freedom of movement and migration of Roma.

In October, the Commissioner held talks with Mr László Andor, the Commissioner for Employment, Social Affairs and Inclusion. Discussions with Mr Andor focused on the situation of Roma and EU funding for Roma inclusion.

Information on the results of the Commissioner's country monitoring was also exchanged with relevant Commission services and the European External Action Service during the year.

The Commissioner had several meetings with representatives of the European Parliament. In March, he participated in a panel discussion organised by the President of the European Parliament's MEDIA intergroup, Mr Jean-Marie Cavada. The discussion focused on the media freedom situation in the European Union.

In June, the Commissioner participated in an exchange of views with members of the Subcommittee on Human Rights of the European Parliament. He highlighted the human rights situation of Roma, the humanitarian crisis in the Southern Mediterranean, the social consequences of austerity budgets and the impact these measures had on the most vulnerable members of society, and freedom of the media.

In November, the Commissioner addressed a hearing on the implementation of the EU Charter of Fundamental Rights, organised by the Committee on Civil Liberties, Justice and Home Affairs.

Furthermore, in May, the Commissioner held discussions with Mr Staffan Nilsson, President of the European Economic and Social Committee, during which the impact of the economic crisis on the implementation of social and economic rights was raised.

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 pursued actively in 2011. 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 and the relationship between the FRA and the Council of Europe.

The Commissioner's Office co-operated with the FRA during the research for the Commissioner's report "Discrimination on grounds of sexual orientation and gender identity in Europe", which was published in June 2011. The Director of the FRA participated as a speaker at the launch of the report. Relevant FRA publications and data from primary legal research were among the key resource documents and the Commissioner's Office benefitted from the technical expertise of the FRA throughout the research process. In September, a joint roundtable entitled "Rights to equality, life and security of the person: bridging the gap for transgender people" was organised in Vienna to raise awareness about the Commissioner's report and FRA research among transgender persons, national authorities and equality bodies.

The Commissioner's Office provided expertise at the stakeholder meetings of the FRA's joined-up governance project with a specific focus on the local level implementation of human rights.

In June, the Commissioner met with the Director of the European Institute for Gender Equality (EIGE), Ms Virginija Langbakk. The discussions referred to non-discrimination in the labour market, equal pay, gender stereotypes and gender identity.

### **4.3 OSCE**

In 2011, co-operation with the OSCE focused particularly on the freedom of the media. In January, the Commissioner met with Ms Dunja Mijatović, the OSCE Representative on Freedom of the Media. In June, she delivered the Commissioner's third Media Freedom Lecture on the protection of journalists from violence at a side event of an OSCE Conference in Vilnius. In October, the Commissioner and Ms Mijatović held a discussion event on the protection of journalists in Strasbourg during a session of the Council of Europe Parliamentary Assembly. In July, Mr Miklós Haraszti delivered the Commissioner's Media Freedom Lecture on media pluralism and human rights at a side event of an OSCE Conference in Vienna.

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. In October, the Commissioner's Office participated in the OSCE Human Dimension Meeting in Warsaw and made a presentation on the Commissioner's report "Discrimination on grounds of sexual orientation and gender identity in Europe" at a side event. The Commissioner liaised with OSCE field missions during his country visits.

### **4.4 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 overlap.

In May, the Commissioner met with Mr Jan Jařab, the Regional Representative at the OHCHR Regional Office in Europe. They discussed OHCHR activities and the implementation of human rights in Europe. In

November, the Commissioner met with Mr Daniel Endres, Director of the UNHCR Bureau for Europe. The discussions related to issues of mutual concern regarding migrants and asylum seekers.

The Commissioner maintained regular contacts with UN special rapporteurs in the course of country and thematic monitoring and met with UNHCR, OHCHR and UNICEF field representatives during several 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 contacts took place between the Commissioner's Office and the respective organisations at technical level. In November, the Office participated in the 5<sup>th</sup> Coordination meeting between the Council of Europe and the OHCHR in Strasbourg. Among the themes where close collaboration evolved during 2011 with the OHCHR were the human rights of LGBT persons, protection of human rights activists, and children with disabilities in institutions.

## **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 2011, 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. Bilateral meetings were also held in Strasbourg. Information from NHRs was used in the preparation of country visits.

In 2011, a particular focus was placed on the situation of equality bodies in Europe. As follow-up to the Commissioner's expert workshop on "Effective and independent structures for promoting equality", organised in Strasbourg in July 2010, the Commissioner issued an Opinion on national structures for promoting equality<sup>2</sup> in March 2011. The Opinion builds on available international standards and stresses the need to ensure the independence and effectiveness of national structures for promoting equality (see also under 6.3). In November, the Commissioner addressed a high-level meeting of the European Network of Equality Bodies (Equinet) in Brussels and discussed the current situation and future potential of equality bodies in the light of his Opinion and country monitoring activities.

In April, the Commissioner's Office participated in the 4<sup>th</sup> annual meeting of the EU Agency for Fundamental Rights and National Human Rights Institutions in Vienna. In June, the Office attended an international conference on the role of Ombudsmen in protecting human rights, organised by the University of Alcalá together with the Spanish Agency for co-operation to support ombudsmen in Latin America. The Office presented the Council of Europe activities in this field and the recent role of the Commissioner in creating an active network of NHRs and enhancing the co-operation with them to contribute to the long-term effectiveness of the European Convention system.

## **6. Communication and information work**

The communication output further developed in 2011. More than 1000 news items were published by the media, in particular by leading ones with international reach, which ensured around 25% of the total media coverage.

The most covered issues were country reports and visits, as well as the work on the human rights of migrants and asylum seekers, counter terrorism measures, the ban of the burqa, the rights of LGBT persons and Roma and Travellers, as well as freedom of expression and of the media.

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<sup>2</sup> CommDH(2011)2

As part of the activities carried out to promote awareness-raising of human rights, the Commissioner has published three ISBN books. In April, the book *Human Rights in Europe: no ground for complacency* was released. It addresses the implementation gap regarding major human rights issues, including the situation of the Roma, counter-terrorism measures, media freedom, police behaviour, socio-economic rights, discrimination and migration. The book has been published in Swedish *Retoriken och verkligheten – mänskliga rättigheter i Europa* by the publishing house Atlas (Stockholm) and in Turkish *Avrupa'da İnsan Hakları* by the publishing house İletişim (Istanbul).

In June, the report *Discrimination on grounds of sexual orientation and gender identity in Europe* was released as a book. A publication on media freedom, *Human Rights and a Changing Media Landscape*, was launched in London in December (on these publications see more above under 2.2 and 2.6 – Thematic Work).

The Commissioner continued his regular publication of Human Rights Comments. Published in English, French and Russian, they have been disseminated to the press, NGOs and other relevant human rights actors. They have covered a wide range of human rights issues, such as discrimination, xenophobia, Roma rights, media freedom, impunity, gender issues, poverty and migration.

## 7 Staff and budget

In 2011, the total number of permanent posts in the Commissioner's office was 21 (13 A-grade posts and 8 B-grade posts) and three fixed-term positions. To cope with the increasing workload, the Office employed five temporary staff and four staff were seconded by the following governments: the Netherlands (two staff) and Switzerland (two staff but one only until July). The ordinary overall budget appropriations were of €2,585,600. The Commissioner's budget represents slightly over one per cent (1,22%) of the total ordinary budget of the Council of Europe.

In 2011, the Commissioner benefited from a total amount of € 378,049 in voluntary contributions from the governments of Finland, Germany, Monaco, Norway, Spain, Sweden and Turkey. The Commissioner expresses his sincere gratitude for the voluntary contributions given by these member states.

In 2011, the Office was staffed with two additional A-grade post and the draft 2013 budget foresees the redeployment of one additional A-grade post in 2013. 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 the work to assist member states, the Commissioner has determined the staff requirement for his Office to be of 30 permanent posts. 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 this 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 him 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, to remain flexible and keep bureaucracy to a minimum.

## Appendices

### A. List of field visits and reports

In 2011 the following country visits were carried out:

18 to 21 January	Armenia
27 to 28 January	Hungary
13 to 15 February	Albania
23 to 25 March	Malta
4 to 6 April	Spain
7 to 8 April	Slovenia
18 to 20 April	Georgia
27 to 29 April	Turkey
12 to 21 May	Russian Federation
26 to 27 May	Italy
1 to 2 June	Ireland
12 to 15 June	Serbia
18 to 21 September	Ukraine
26-27 September	Slovak Republic
28 to 30 September	Poland
10 to 14 October	Turkey
19 to 22 October	Republic of Moldova
19 to 26 November	Ukraine
8 to 13 December	United Kingdom

In 2011, the following reports and letters related to visits were published:

#### *Albania*

- Special report by the CoE Commissioner for Human Rights following his visit to Albania from 13 to 15 February 2011 focusing on the human rights aspects of the events of 21 January in Tirana (published 22 February 2011 with reference CommDH(2011)9).

#### *Turkey*

- Letter from the CoE Commissioner for Human Rights to Mr Recep Tayyip ERDOĞAN, Prime Minister of Turkey, following his visits in 2010. Issues reviewed: freedom of religion (dated 16 December 2010 and published on 3 February 2011 with reference CommDH(2011)5).

#### *Ukraine*

- Letter from the CoE Commissioner for Human Rights to Mr Mykhailo Dobkin, Head of Kharkiv Oblast State Administration, and Mr Henadi Kernes, Secretary of Kharkiv City Council. Issues reviewed: freedom of assembly (dated 20 August 2010 and published on 8 February 2011 with reference CommDH(2011)7).

#### *Czech Republic*

- Report by the CoE Commissioner for Human Rights following his visit to the Czech Republic from 17 to 19 November 2010. Issues reviewed: action against discrimination, racism and extremism and the protection of the human rights of Roma (published 3 March 2011 with reference CommDH(2011)3).

#### *Bosnia and Herzegovina*

- Report by the CoE Commissioner for Human Rights following his visit to Bosnia and Herzegovina from 27 to 30 November 2010. Issues reviewed: fight against discrimination, the human rights of people displaced by the war, asylum seekers and stateless persons and post-war justice and reconciliation (published 29 March 2011 with reference CommDH(2011)11).

*Armenia*

- Report by the CoE Commissioner for Human Rights following his visit to Armenia from 18 to 21 January 2011. Issues reviewed: human rights issues related to the March 2008 events, fundamental freedoms (including expression, assembly and association) and the human rights situation in the army (published 9 May 2011 with reference CommDH(2011)12).

*Georgia*

- Report by the CoE Commissioner for Human Rights following his visit to Georgia from 18 to 20 April 2011. Issues reviewed: administration of justice and level of protection of human rights in the justice system (published 5 July 2011 with reference CommDH(2011)22).

*Turkey*

- Letter from the CoE Commissioner for Human Rights to Ms Nimet Çubukçu, Minister of National Education of the Republic of Turkey. Issues reviewed: access to education by migrant children (dated 21 March 2011 and published 20 April 2011 with reference CommDH(2011)15).

*Spain*

- Letter from the CoE Commissioner for Human Rights to Ms Leire Pajin, Minister of Health, Social Policy and Equality of Spain. Issues reviewed: protection of the human rights of Roma (dated 9 May 2011 and published 1 June 2011 with reference CommDH(2011)19).

*Slovenia*

- Letter from the CoE Commissioner for Human Rights to Mr Borut Pahor, Prime Minister of Slovenia, following his visit to Slovenia from 7 to 8 April 2011. Issues reviewed: the human rights of Roma and the situation of the 'erased' persons (dated 10 May 2011 and published on 7 June 2011 with reference CommDH(2011)23).

*Malta*

- Report by the CoE Commissioner for Human Rights following his visit to Malta from 23 to 25 March 2011. Issues reviewed: protection of the human rights of migrants, including asylum seekers (published 9 June 2011 with reference CommDH(2011)17).

*Russian Federation*

- Report by the CoE Commissioner for Human Rights following his visit to the Russian Federation from 12 to 21 May 2011. Issues reviewed: Human rights situation in the North Caucasus Federal District namely Kabardino-Balkaria, North Ossetia-Alania, the Chechen Republic and Ingushetia (published on 6 September 2011 with reference CommDH(2011)21).
- Letter from the CoE Commissioner for Human Rights to the Government of the Russian Federation following his visit from 12 to 21 May 2011. Issues reviewed: the right to freedom of assembly (dated 21 July 2011 and published 9 September 2011 with reference CommDH(2011)31).

*Turkey*

- Report by the CoE Commissioner for Human Rights following his visit to Turkey from 27 to 29 April 2011. Issues reviewed: freedom of expression and freedom of the media (published on 12 July 2011 with reference CommDH(2011)25).

*Italy*

- Report by the CoE Commissioner for Human Rights following his visit to Italy from 26 to 27 May 2011. Issues reviewed: protection of the human rights of Roma and Sinti and of migrants, including asylum seekers (published on 7 September 2011 with reference CommDH(2011)26).

*Ireland*

- Report by the CoE Commissioner for Human Rights following his visit to Ireland from 1 to 2 June 2011. Issues reviewed: human rights of vulnerable groups in times of austerity budgets (published on 15 September 2011 with reference CommDH(2011)27).

*Serbia*

- Report by the CoE Commissioner for Human Rights following his visit to Serbia from 12 to 15 June 2011. Issues reviewed: post-war justice and reconciliation, the fight against discrimination and freedom of the media, access to public information and personal data protection (published on 22 September 2011 with reference CommDH(2011)29).

*Azerbaijan*

- Observations by the CoE Commissioner for Human Rights on the human rights situation in Azerbaijan. Issues reviewed: freedom of expression, freedom of association, freedom of peaceful assembly (published on 29 September 2011 with reference CommDH(2011)33).

*Slovak Republic*

- Report by the CoE Commissioner for Human Rights following his visit to the Slovak Republic from 26 to 27 September 2011. Issues reviewed: protection of the human rights of Roma and protection of the human rights of persons with disability (published on 20 December 2011 with reference CommDH(2011)42).
- Letter from the CoE Commissioner for Human Rights to Mr Rudolf Chmel, Deputy Prime Minister for Human Rights and National Minorities following his visit to the Slovak Republic on 26 to 27 September 2011. Issues reviewed: protection of the human rights of national minorities (published on 20 December 2011 with reference CommDH(2011)45).

## **B. Issue Papers, Opinions, Recommendations and other publications**

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

In February, the Commissioner issued an Opinion on Hungary's media legislation in light of Council of Europe standards on freedom of the media (CommDH(2011)10). In his Opinion the Commissioner made several recommendations to the Hungarian authorities, including the repeal or revision of a number of media law provisions (see above under 1.2 – Visit to Hungary).

In March, the Commissioner issued an Opinion on national structures for promoting equality (CommDH(2011)2), which are bodies created by law to combat discrimination and promote equality at member state level. They examine and make findings on complaints of discrimination and so enable people to exercise their rights under equal treatment legislation. National structures also support employers, service providers and policy makers in developing effective equality policies and practices within their organisations and mobilise a wide range of stakeholder organisations to take action to promote equality and combat discrimination. They contribute to a culture of rights within society which recognises the value of strong equal treatment legislation. In addition, these national structures are essential for developing a knowledge base on issues of discrimination and inequality. The Opinion builds on available international standards and stresses the need to ensure the independence and effectiveness of national structures for promoting equality.

In April, the Commissioner published a compilation of his Viewpoints "Human rights in Europe: no ground for complacency". In the Viewpoints covering a wide range of themes published in the volume, the Commissioner defines the shortcomings that still exist in Europe and suggests concrete remedies to

address them. It addresses the implementation gap regarding major human rights issues, including the situation of the Roma, counter-terrorism measures, media freedom, police behaviour, socio-economic rights, discrimination and migration. The publication is available in a book format and it is also available for download on the Commissioner's website.

In April, the Commissioner published an Issue Paper entitled "Adoption and children: a human rights perspective" (CommDH/IssuePaper(2011)2) prepared by Nigel Cantwell, International Consultant on Child Protection Policies. The issue paper highlights the relevant international treaties, including the 2008 European Convention on the Adoption of Children (Revised) and The Hague conventions, but also the importance of the UN Convention on the rights of the child and of the case-law of the European Court of Human Rights. The respect of the child's best interests must be a central element during the whole adoption procedure. In his recommendations, the Commissioner calls on member states to review national child protection systems and ensure that their control mechanisms prevent and address instances of abuse of adopted children. He also calls for stricter rules for accreditation of adoption agencies and an explicit ban of non-regulated and private adoptions. Measures to prevent any risk of children becoming stateless in the inter-country adoption process should be adopted.

In June, the Commissioner published a report on discrimination on grounds of sexual orientation and gender identity in Europe. The report, based on two years of socio-legal research, gives a broad overview of the human rights situation of lesbian, gay, bisexual and transgender (LGBT) persons in Europe (see above under 2.6).

In December, the Commissioner published a series of Media Freedom lectures organised by the Office in 2011 with his foreword under the title "Human Rights and a changing media landscape". The lectures covered a wide range of themes: protection of journalists from violence (Dunja Mijatović), ethical journalism and human rights (Aidan White), Access to official documents (Anders R. Olsson), media pluralism and human rights (Miklós Haraszti), public service media and human rights (Boyko Boev and Barbora Bukovska), and social media and human rights (Douwe Korff). The publication is available in book format and it can also be downloaded at the Commissioner's website.

### **C. Human Rights Comments**

Commissioner Hammarberg continued with the publication of frequent "Human Rights Comments" on his website in English, French and Russian. In 2011, the following topical human rights concerns were addressed in the Human Rights Comments:

- Restrictive laws prevent families from reuniting (2 February)
- Migrant children should not be detained (8 February)
- Women are underpaid all over Europe (8 March)
- Overuse of the European Arrest Warrant – a threat to human rights (15 March)
- Persons with disabilities must not be denied the right to vote (22 March)
- Prisoners should have the right to vote (31 March)
- Social Networks: potential for social change – but privacy must be protected (27 April)
- Zero tolerance for sexual abuse of children (5 May)
- Human Rights Defenders in Belarus are severely persecuted (25 May)
- African migrants are drowning in the Mediterranean (8 June)
- Austerity budgets tend to victimise the most vulnerable (14 June)
- Politicians using anti-Roma rhetoric are spreading hate (28 June)
- European media and anti-Gypsy stereotypes (7 July)
- Judgments issued by the European Court cannot be ignored (19 July)
- Penalising women who wear the burqa does not liberate them (20 July)
- Clear laws needed to protect trans persons from discrimination and hatred (26 July)
- Several hundred thousand people in Europe are stateless – they need extra protection (2 August)

- Methods for assessing the age of migrant children must be improved (9 August)
- Excessive use of pre-trial detention runs against human rights (18 August)
- Ten years of “global war on terror” undermined human rights – also in Europe (1 September)
- Europeans must account for their complicity in CIA secret detention and torture (5 September)
- Human rights defenders need solidarity from all parts of Europe when repressed by their governments (13 September)
- Schools must stop spreading homophobic and transphobic messages (27 September)
- Protection of journalists is essential for media freedom in Europe (4 October)
- Only genuine justice can ensure durable peace in the Balkans (3 November)
- Ethical journalism: self-regulation protects the independence of media (8 November)
- The right to leave one’s country should be applied without discrimination (22 November)
- Politically-motivated murders are not effectively investigated – this feeds a culture of impunity (29 November)
- Public service media needed to strengthen pluralism (9 December)

#### **D. Events organised by the Office of the Commissioner**

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 2011, the Commissioner’s Office organised or co-organised the following events:

- Seminar on the “Human Rights dimensions of migration in Europe” in co-operation with the Turkish Chairmanship of the Committee of Ministers (Istanbul, 17-18 February)
- Media Freedom Lecture on ethical journalism and human rights (Aidan White, Brussels, 1 March)
- Expert meeting on the rights of persons with mental disabilities (Strasbourg, 11 March)
- Media Freedom Lecture on access to official documents (Hans-Gunnar Axberger, Brussels, 3 May)
- Media Freedom Lecture on the protection of journalists from violence (Dunja Mijatović, Vilnius, 7 June 2011, at a side even of an OSCE Conference)
- Media Freedom Lecture on public service media and human rights (Barbora Bukovská and Boyko Boev, London, 10 June 2011, hosted by Article 19)
- Media Freedom Lecture on social media and human rights (Douwe Korff, London, 10 June, hosted by Article 19)
- Launch event of the report on discrimination on grounds of sexual orientation and gender identity in Europe (Strasbourg, 23 June)
- Media Freedom Lecture on media pluralism and human rights (Miklós Haraszti, Vienna, 7 July 2011, at a side even of an OSCE Conference)
- Joint roundtable with the European Union Agency for Fundamental Rights on the “Rights to equality, life and security of the person: bridging the gap for transgender people” (Vienna, 22-23 September)
- Open Discussion “Protection of Journalist in Europe” (Strasbourg, 5 October)

- Round Table on “Human Rights Defenders in the Council of Europe Area” (Strasbourg, 27-28 October)
- Roundtable “Opportunities for governments in implementing the recommendations of the Commissioner’s report ‘Discrimination on grounds of sexual orientation and gender identity in Europe” (Bern, 24 November)
- Launch event of the publication “Human Rights and a Changing Media Landscape” in co-operation with Article 19 (London, 8 December).

## **E. Events in which the Commissioner or his Office took part**

The Commissioner or his Office participated in the following major events during 2011:

- ECRI/Turkish CM Chairmanship seminar on discrimination (Ankara, 9-11 January)
- Conference on "Social Networks", organised by the Hungarian Parliamentary Commissioner on Data Protection and Freedom of Information (Budapest, 27 January)
- European Parliament public hearing on freedom of the press, organised by the President of the European Parliament’s MEDIA intergroup, Mr Jean-Marie Cavada (Brussels, 1 March)
- Meeting on Progress report of lead-poisoned children of Kosovo\* (London, 16 March)
- 20th Session of the Congress: debate on human rights action at the local and regional level (Strasbourg, 22 March)
- Conference The "Roma Issue" in Europe today: Contentious Politics and the Formation of So-called "Public Problem" (Tours, 24-25 March)
- Equinet Legal Seminar (Brussels, 28 March)
- Round table on development of NHRIs and enhance of co-operation of HR defenders and the state bodies (Voronezh, 7-8 April)
- 4<sup>th</sup> meeting of FRA and NHRIs (Vienna, 5 April)
- FRA joined-up Governance Project meeting (Barcelona, 7-8 April)
- Celebration of the International Day of Roma (Kamenci, 8 April)
- High-Level Conference on the Future of the European Court of Human Rights (Izmir, 26-27 April)
- Regional Consultation on Save the Children Child Rights Governance Global Initiative (Brussels, 5 May)
- CM Ministerial meeting (Istanbul, 11 May)
- Equality Ombudsman’s seminar on equality and human rights of transgender persons (Helsinki, 12 May)

- Conference on migration and housing rights in Europe, organised by the FEANTSA - the European Federation of National Organisations working with the Homeless (The Hague, 19 May).
- Roundtable meeting of the National LGBT Governmental Focal Points (20 May, Helsinki)
- International conference entitled "Andrei Sakharov: Alarm and Hope 2011" commemorating the 90th anniversary of birth of A.D. Sakharov, organised by the Moscow Andrei Sakharov Museum and Public Centre (Moscow, 20-21 May)
- 50th anniversary of Amnesty International: debate on the state of human rights in Europe in the European Parliament (Brussels, 24 May)
- Conference on "The dialogue between General Prosecutors in Europe: Justice Bodies, Promoters of Human Rights" organised by the General Prosecutor of Italy's Supreme Court of Cassation (Rome, 27 May)
- Meeting of Amnesty International Sweden (Stockholm, 28 May)
- Open Society Foundations meeting on the UN Convention on the Rights of Persons with Disabilities "Disability Rights: From Charity to Equality" (Dublin, 1-2 June)
- International conference "The role of Ombudsmen in protecting human rights" organised by the University of Alcalá together with the Spanish Agency for Cooperation (Madrid, 1-3 June)
- *Initiative on Impunity and the Rule of Law* conference on "Safety and Protection of Journalists: A Responsibility for the World" (London, 1 June)
- OSCE Conference on safety of journalists in the OSCE region (Vilnius, 7 June)
- Conference "Diversity Enriches" (Tallinn, 8-9 June)
- Exchange of views with European Parliament's Subcommittee on Human Rights jointly with the Committee on Civil Liberties, Justice and Home Affairs (Strasbourg, 9 June)
- Armenian National Assembly, UNICEF and IPU conference on "Making child rights a reality for the most vulnerable children" (Yerevan, 14 June)
- Annual Meeting of European Federation of Journalists (Belgrade, 16 June)
- Informal meeting between Inter-American and European human rights mechanisms on the protection of human rights defenders and journalists (Strasbourg, 17 June)
- Council of Europe seminar "Human Rights, Democracy and the Rule of Law" (Brussels, 23 June)
- Workshop organised by PICUM - Platform for International Cooperation on Undocumented Migrants on "Advocating for the Human Rights of Undocumented Migrants: Strategies, Successes, and Opportunities" (Brussels, 24 June).
- UNHCR side event "The role of NGOs in the protection of refugees fleeing persecution based on sexual orientation or gender identity: barriers, strategies and ways forward" (Geneva, 29 June).
- OSCE Supplementary Human Dimension Meeting: Promotion of pluralism in new media (Vienna, 7 July)

- Venice School of Human Rights dedicated to "Human Rights as Our Responsibility" with a focus on human rights defenders (Venice, 8 July).
- International workshop on "Hate Crime Motivated by Sexual Orientation and Gender Identity" organised by Counselling Centre for Citizenship, Civic and Human Rights (Prague, 11 August)
- Hearing on the state of media freedom in Europe in the Swedish Parliament, organised by the PACE Sub-Committee on the media and the Sub-Committee on Cultural Heritage (Stockholm, 12 September)
- Legal training session on conflicts between the right to equal treatment and other fundamental rights, organised by the European Network of Equality Bodies – Equinet (Vienna, 12-13 September)
- UN Inter-Agency Meeting (Paris, 13-15 September)
- Conference of Ministers of Justice on Prevention of Human rights violations and high-level meetings (Kyiv, 19-20 September)
- Congress Summit of Mayors on Roma (Strasbourg, 22 September)
- Thematic workshop "The role of National Human Rights Structures in protecting against all forms of discrimination" hosted by the Office of the Bosnian Ombudsman (Sarajevo, 28-29 September).
- 5th Warsaw Seminar on Human Rights, organised by the Polish Ministry of Foreign Affairs (Warsaw, 29 September)
- 2nd Session of the Polish Council for Combating Racial Discrimination, Xenophobia and the Intolerance related thereto (Warsaw, 30 September)
- OSCE/ODIHR Human Dimension Implementation Meeting (Warsaw, 5-6 October)
- FRA meeting "Connecting Rights: a Joined-Up Governance Approach to Fundamental Rights Implementation" (Utrecht, 10-12 October)
- 50th anniversary meeting of the European Social Charter (Strasbourg, 18 October)
- Conference on Roma Holocaust organised by UN Republic of Moldova in co-operation with *É Romani Glinda*, Swedish Roma organisation (Chişinău, 20 October)
- UNHCR/OSCE regional conference on the Provision of Civil Documentation and Prevention of Statelessness in South-Eastern Europe (Zagreb 26-27 October)
- ILGA-Europe Annual conference 2011 on "15 years of cracking prejudice and discrimination against lesbian, gay, bisexual, trans and intersex people in Europe" (Turin, 27-29 October)
- Mental Disability Advocacy Centre (MDAC) roundtable: Preventing Torture and Ill-Treatment against Persons with Disabilities (Strasbourg, 4 November)
- Workshops with local NGOs; information-sharing meetings with IDPs and local authorities; and awareness-raising events with students on the situation of IDPs (with a focus on privatisation and rehabilitation processes), organised by the Office of the Public Defender of Georgia (Kutaisi, Zugdidi, Batumi, 7-10 November)

- European Parliament event on pre-trial detention “EU pre-trial detention – a case for legislation?” (Brussels, 10 November)
- European Parliament Committee on Civil Liberties, Justice and Home Affairs hearing “The implementation of the EU Charter of Fundamental Rights two years after the Lisbon Treaty’s entry into force” (Brussels, 10 November)
- Swedish Forum for Human Rights (Stockholm, 14 November)
- EU Equality Summit (Poznan, 14-15 November)
- Workshop on “Determination of the Fields Basis of the Violation Judgments of ECtHR on Turkey and Solution Suggestions for Elimination of Violations” (Ankara, 15-17 November)
- Conference on combating hate speech in South-Eastern Europe (Sarajevo, 17-18 November 2011)
- TransHelsinki Seminar (Helsinki, 18-19 November)
- Equinet High-Level Meeting of Heads of National Equality Bodies (Brussels, 29 November)
- Expert consultation "Safety of Journalists: Towards a more effective international protection framework" (Vienna, 23 November)
- Transgender Europe's Roundtable “Upholding rights of transgender people in Europe - Obligations of member states under the current European legislative framework” (Ankara 20-22 November)
- Fundamental Rights Conference 2011 “Dignity and rights of irregular migrants” (Warsaw, 21-22 November)
- Roundtable with LGBT governmental focal points (Bern, 24-25 November).
- European Movement UK Conference “Are the EU and its member states meeting their human rights obligations?” (London, 12 December)
- Lecture at the Equality and Diversity Forum (London, 13 December).