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Concluding Session

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The Council of Europe has 46, soon 47 member states. Since all the European Union members, 25 soon to be 27, are also members of the Council of Europe, I am half time “EU Commissioner for Human Rights”.

We have to be careful in Europe on being complacent. There is an impression outside Europe that we are preaching human rights without cleaning our house. Often we are not self-critical and we need to reflect.

There are many reasons to be self-critical, in particular on the problems which we did not solve well in Europe. In the Office of the Commissioner for Human Rights, we have identified the following key human rights problems in the Europe of today:

The first real problem is how to combine effective combat to terrorism with respect for human rights. The United States are not the only State to have failed. We have also implemented our own policies infringing upon human rights. It is high time to review what happened and learn the lessons from the deterioration of human rights standards. Although we should not belittle the threat of terrorism, there is a major lesson from the last five years, and that is that we are not effective against terrorism if we use methods that violate human rights. On the contrary, we give support to terrorists. The time has come to encourage all governments to look back to what happened and encourage prosecution and judicial proceedings on what happened. The recommendation of Terry Davis on the need to ensure democratic control of counter-terrorism agencies is very important. My experience is that there are problems in what comes to democracy and parliamentary control of counter-terrorism policies.

The second problem is the xenophobic tendency in Europe. It is difficult to say if it is growing. Across Europe there are problems with racism, xenophobia, anti-ziganism and homophobia. In Slovenia, the discussion on the eviction of a Roma family is still ongoing, after leading to an almost outburst of xenophobic tendency. The family concerned is still housed in a refugee camp. This situation illustrated how easily such situations can spread xenophobia.

Also in Germany, anti-Semitic and anti-immigrant propaganda spread from groups trying to recruit among the young unemployed, whom succeed in too many cases. These threats to the development of society require further action in order to ensure the respect for the Council of Europe’s standards on racism, notably from the European Commission against Racism and Intolerance. In addition, there is the need to continue supporting the European Monitoring Centre on Racism and Xenophobia (EUMC) within the enlarged body of the Fundamental Rights Agency. Indeed, we are

not in a good situation in the combat to xenophobia. Nine countries in Europe have far right parties in parliament with influence on governments. This leads to further tensions in society, segregation and continual discrimination.

The third problem is migration. There is the fear in many countries, that migrants are coming in large numbers without us knowing how to address the issue. What is forgotten is that even irregular migrants have human rights. They have the right to due process, protection against unlawful detention, illegal treatment and other international and European standards. However, we see cases of enforced and slave labour in Europe and cases of men and women daring not to complain to the police as they risk being sent out.

These are the three challenges that we feel Europe has to take. More needs to be done.

We also need to continue to emphasise the importance of “classic” human rights, such as those related to the judicial process, police and decent prison conditions. We have to monitor these rights.

In addition, there are particular groups of people who face discrimination. Indeed, many women still have lower salaries than men and are underrepresented in political assemblies. Also, the numbers of domestic violence are high. Regarding children’s rights, only 15 countries in Europe have banned corporal punishment and juvenile justice is still in a poor condition in Europe. What’s more, prejudice against LGBT is high with demonstrations being stopped or prevented, also by non state groups. Lastly, the situation of persons with disabilities, notably mental disability is of concern.

The list is long in Europe. There is no place for complacency.

How shall we structure the human rights work? Now that the discussion on the Fundamental Rights Agency is over, we should look into constructive cooperation. The European Union, the OSCE/ODIHR and the Council of Europe need to work out a clear divide of competencies. We should not have a big lazy bureaucracy of human rights but an effective structure that supports one another.

Regarding the work forward, I would like to stress the importance of human rights national institutions and ombudspersons. The Paris principles contain a core standard, which is the absolute need of independence. These bodies need further strengthening. European structures and the Council of Europe need to cooperate closely to ensure that many pan European problems are addressed. The European Court of Human Rights is a wonderful institution. The problem is that it is overloaded and we know that delayed justice is denied justice. By working together, the Court, the Commissioner for Human Rights and the Ombudspersons, can ensure that problems are dealt with at the national level: if there are problems with the law, they should be addressed as soon as possible there. This requires good cooperation.

Of utmost importance are the Human Rights Defenders. No one has tried to give a precise definition of a Human Rights Defender in order not to exclude others. We do not have a Convention but we do have a very important declaration and also a United Nations Secretary General Special Representative for Human Rights Defenders who is trying to secure that the declaration is taken seriously. Unfortunately, it is not. Anna Politkovskaya was murdered and national ombudsmen and human rights defenders tend to be not very liked when they criticise those in power. A government which not only allows but encourages people to defend human rights shows maturity. Sometimes it is not the government but other groups that can be quite brutal against human rights defenders. We are talking about a wider problem, which includes initiating judicial procedures against defenders,

trying to undermine the position and reputation of one by affecting his or hers credibility; or by making it so bureaucratically difficult to report on what one is doing. Human Rights Defenders need our solidarity and the European Union Guidelines on Human Rights Defenders are a good step for their support. The Council of Europe is prepared to intensify the protection of defenders.