



COMMISSIONER FOR HUMAN RIGHTS
COMMISSAIRE AUX DROITS DE L'HOMME



Strasbourg, 7 September 2011

CommDH(2011)28

2ND QUARTERLY ACTIVITY REPORT 2011

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1 April to 30 June 2011

Presented to the Committee of Ministers
and the Parliamentary Assembly

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1. Overview

Non-discrimination and the protection of the rights of members of vulnerable groups were the key priorities during the second quarter of 2011. Another area of emphasis in the programme was the protection of human rights in the changing media landscape.

I visited Spain and Slovenia to study efforts to ensure rights for the Roma population. In both countries there are strategies and programmes to improve their living conditions and to counter anti-Gypsism, some of which were reflected on our web site as “good practices”. Obviously, there are also remaining problems which I referred to in communications to the respective governments (which have been made public).

During visits to Italy and Serbia I also contacted Roma communities living under precarious conditions (which will be reflected in reports to be published during the third quarter). A Human Rights Comment was published raising the problem of political rhetoric which may stigmatise Roma.

I took part in an international conference in Dublin on the rights of persons with disabilities. Work has started in my Office to produce Issue Papers on crucial aspects for persons with mental health problems and intellectual disabilities – protection against deprivation of legal capacity and correct methods of de-institutionalisation.

With the government and regulatory bodies in Ireland I also discussed how one protects the rights of vulnerable people in periods of economic crisis. I stressed the particular importance of the Ombudsmen and other monitoring bodies in such times. In a visit to Vilnius I discussed the same issues.

The Office published a major study on the rights of lesbian, gay, bisexual and transgender (LGBT) persons at an event held during the week of the June session of the Parliamentary Assembly. The report was the result of almost two years of research work during which constructive co-operation had been established with the Fundamental Rights Agency, ODIHR and various UN agencies. The project was funded by voluntary contributions for which I want to express my gratitude.

The response to the report was overwhelmingly positive. In particular its factual approach was praised among government and civil society representatives. I received several comments about the value of making the broadly unknown situation of transgender persons more visible.

During this quarter we organised a series of lectures on media problems relating to human rights. They dealt with “ethical journalism”; access to official documents; public service media; protection of journalists; and internet-based social media. Another lecture – on diversity of the media – is being prepared.

This project has turned out to be timely and has been met with great interest. Co-operation has been excellent, in particular with the OSCE, the International Federation of Journalists, Article 19 and London Metropolitan University. Our plan is to publish edited versions of the lectures as a contribution to the public debate on these issues. Co-operation is also established with the Parliamentary Assembly on this theme and I will take part in a PACE committee meeting on media issues in September.

I also discussed media issues in dialogues with government representatives. The issue of media diversity was stressed in the report on Armenia. While in Turkey in late May we did some research on the media situation in that country (for publication in mid-July).

As during earlier periods, the issue of migration was taken up. The report on Malta was published and the issue of migration and refugee policies were on the schedule for the visit in Italy (which will be followed by a report during the third quarter). I published a Human Rights Comment on the tragedies of migrants drowning in the Mediterranean.

The functioning of the justice system was a key priority during the missions to Georgia and the Russian Federation. The report after the visit to Georgia is published and highlights progress resulting from the new code of criminal procedures but also some serious problems. One of them relates to plea bargaining procedures which are extensively applied in criminal cases. I cautioned that very high conviction rates, a stringent sentencing policy and low public trust in the justice system can influence defendants to plead guilty even if they are innocent.

During the visit to Russia I focused on the situation in the North Caucasus and the methods used in the counter-terrorism programmes. In particular, I raised the issue of impunity. I went to Nalchik, Vladikavkaz, Grozny, Magas - and Moscow. A report will be published in the third quarter.

While in Moscow I took part in the conference organised by the Sakharov centre on the relevance of Andrei Sakharov's example and writings in today's Europe.

2. Missions and Visits

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 Georgia.

In Tbilisi, the Commissioner met the Minister of Corrections and Legal Assistance, Khatuna Kalmakhelidze, the First Deputy Minister of Justice, Tina Burjaliani, the Chairman of the Supreme Court, Konstantine Kublashvili, the Prosecutor General, 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, Lasha Tordia.¹ He also held discussions with the Public Defender (Ombudsman), George Tugushi, a 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.

¹ Regrettably, at the time of the Commissioner's visit, neither the Minister of the Interior nor his Deputy were available to meet with him.

During the visit, the Commissioner noted the reforms undertaken in the area of criminal justice, including the introduction of a new Code of Criminal Procedure which entered into force last October. Some progress has been reported, including in the area of juvenile justice, and steps have been taken to address overcrowding in prisons. However, the Commissioner discussed concerns related to lengthy terms of imprisonment and proportionality of sentences in cases of relatively minor crimes.

In light of the right to a fair trial, principles of adversarial trial and equality of arms, the Commissioner was interested in the assessment of the plea-bargaining procedure, in particular in cases when it could lead to a distortion of justice. The Commissioner noted the dominant role of the prosecutors in the criminal justice system in Georgia and prosecutions which have continued despite procedural violations in investigations conducted by the police, and the difficulties faced by defence lawyers in conducting their work.

Based on information he received on alleged politically motivated prosecutions, the Commissioner had the opportunity to discuss several such cases and meet some of the detainees who claimed to have been unfairly prosecuted and tried on the basis of their political beliefs.

While acknowledging that significant progress has been made in reducing the risks of ill-treatment by police officers, the Commissioner stressed that the authorities should combat impunity in all cases of acts of violence and disproportionate use of force by law enforcement officials.

A report following this visit was published on 30 June.

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, as well as members of the National Council of the Roma people. He also had an exchange with representatives of civil society, local authorities and police officers of 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, the Commissioner published a letter addressed to the Spanish Minister of Health, Social Policy and Equality (see section 3 below).

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 Roma settlement Kamenci, 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 on 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, the Commissioner published a letter to Prime Minister Borut Pahor, focusing on the human rights of Roma and the situation of the 'erased' persons (see section 3 below).

Visit to the Russian Federation

The Commissioner and his delegation visited the Russian Federation from 12 to 21 May. In the course of the visit the Commissioner went to Moscow and to four republics in the North Caucasus Federal District (Kabardino-Balkaria, North Ossetia-Alania, Chechnya and Ingushetia) and held discussions on the most serious human rights problems concerning that region with representatives of the Investigating Committee of the Russian Federation and with local authorities, as well as non-governmental organisations.

Since the Commissioner's previous visit in September 2009, there has been an increased emphasis on the socio-economic development of the North Caucasus Federal District, and the implementation of a strategy aiming to improve the investment climate, fight corruption and address unemployment is ongoing. Despite these positive steps to improve the quality of life of the people living in the region, the situation in the North Caucasus remains highly complex and continues to present major challenges for the protection of human rights.

The Commissioner paid particular attention to the persisting problem of impunity for serious human rights violations, and sought to identify the remaining obstacles to accountability and to formulate recommendations with a view to ensuring that those responsible for such violations are brought to justice. In addition, he focused on the issue of counter-terrorism measures, the occurrence of abductions, disappearances, and ill-treatment, and the situation of human rights defenders.

A report on the visit will be published later.

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 also 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.

As regards the protection of the human rights of Roma and Sinti, special attention was paid to the need to counter widespread negative speech targeting these communities by politicians, and the related need to combat anti-Gypsyism in society. Evictions of Roma and Sinti from both unauthorised and regular settlements around the country and their impact on the human rights of the persons concerned were also in focus. Further subject areas addressed include: the continuing need for the Italian authorities to improve their response to racially-motivated violence; the situation of the many thousands of Roma originating from the region of the former Yugoslavia and their descendants, who are *de facto* stateless in Italy in spite of having been born and/or lived there almost all their lives; and the need for a national mechanism which would provide coherence to and support regional and local efforts in the field of promoting social inclusion of Roma and Sinti in Italy.

With reference to the protection of the human rights of migrants, including asylum seekers, the Commissioner discussed some of the challenges resulting from the recent increase in arrivals by sea following the political unrest in Tunisia and armed conflict in Libya. These challenges included those connected with operations for the rescue of persons in distress at sea, and the need to ensure the full respect by Italy of its international obligations, including the principle of *non-refoulement*, in the context of interceptions. Challenges in securing adequate reception arrangements that also provide necessary services for asylum seekers, and functioning procedures for the identification and care of vulnerable groups were also in focus. Discussions finally covered the need for a reliable system to support the integration of refugees and other beneficiaries of international protection in Italian society.

A report on the visit will be published later.

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 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 UN Convention on the Rights of Persons with Disabilities, adopted in 2008, 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.

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.

A report on the visit will be published later.

Mission to Lithuania

The Commissioner visited Lithuania from 6 to 8 June on the occasion of his participation in an OSCE conference on the safety of journalists (see section 4 below). In the course of this mission the Commissioner met with the Lithuanian Ombudsmen, Mr Romas Valentukevičius and Mr Augustinas Normantas, members of the Parliamentary Human Rights Committee (with Mr Arminas Lydeka as its Chairman), members of the Lithuanian PACE delegation (with Mr Emanuelis Zingeris as its Chairman) and the Inspector of Journalist Ethics, Ms Zita Zamžickienė.

The Commissioner discussed with his counterparts the impact of budget cuts on human rights, especially on vulnerable social groups, such as the elderly and people with disabilities. Other issues discussed were xenophobia and the fight against discrimination, as well as the application of the Law on the Protection of Minors against the Detrimental Effects of Public Information by the Inspector of Journalist Ethics.

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 Sasa 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.

The Commissioner noted that Serbia is going through a transitional period, striving to overcome the legacy of the violent past, and to enhance social cohesion. He stressed that sustained and concerted efforts are necessary to redress the gross human rights violations of the war, eliminate discrimination and enhance media freedom.

During the discussions with the authorities the Commissioner noted the need to resolve the pending cases of missing persons and to effectively prosecute all war-related crimes. He emphasised that both issues require reinforced regional and inter-state co-operation. The Commissioner remains concerned at the reported serious deficiencies of the witness protection system and welcomed the commitment shown by the Serbian government to improving it by transferring the relevant competence to the Ministry of Justice.

The Commissioner expressed his concern at the protracted displacement of 200 000 persons from Kosovo*. After he visited a collective centre for displaced persons in Belgrade, the Commissioner stressed the need to find durable solutions for persons who are still living in 43 collective centres in Serbia. In this regard the Commissioner underlined that the ongoing dialogue between Kosovo and Serbia should be reinforced and focus on making access to left property, and enjoyment of social and economic rights possible for displaced persons. In this context, the Commissioner welcomed the Serbian government's willingness to promote the establishment of a regional trust fund management mechanism within the Council of Europe Development Bank to address forced displacement-related issues.

The Commissioner noted that Roma remain socially excluded in Serbia. Of particular concern to him is the non-registration of Roma children upon their birth and the lack of personal identity documents of approximately 5% of Roma in Serbia. During his visit to the informal Roma settlement in Antena (Belgrade) he witnessed that displaced Roma from Kosovo are facing particularly harsh living conditions. The Commissioner noted that progress has been made with regard to access by Roma to health care and education but that additional efforts are needed to enhance their protection, in particular with regard to their access to personal identity documents and adequate housing.

The Commissioner noted with satisfaction the progress made with regard to the protection of the human rights of persons with disabilities, in particular with regard to their increased employment and de-institutionalisation of children with disabilities. However, he stressed that the segregation of disabled university students, the abuse of legal capacity procedures, often by close family members, and obstacles to their physical access to institutions are some of the problems that the authorities need to effectively tackle and resolve.

As regards LGBT persons, widely present homophobia, including violent hate crimes, remains a serious concern. In this regard the Commissioner welcomed the recent decision of the Constitutional Court to ban one extremist organisation underlining that this could be a positive step towards developing a more tolerant society. He also emphasised that a more vigorous implementation by courts of the criminal provisions concerning hate crimes is necessary.

Turning finally to the question of media freedom, the Commissioner underlined the media's crucial role for the development of pluralism and broadmindedness in a democratic society. Unfortunately, on a number of occasions media freedom has been threatened in Serbia, through attacks against, and in some cases even murders of

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

journalists. Commissioner Hammarberg underlined the need to effectively investigate these cases, and to bring those guilty to justice. The Commissioner welcomed the ongoing public consultations on the government's new media policy aiming, amongst other things, at enhancing transparency of media outlets' ownership. He also stated his position against the criminalisation of defamation and the imposition by courts of excessive fines in such cases, which adversely affect freedom of expression, including media freedom.

A report on the visit will be published later.

3. Reports and continuous dialogue

Report on Armenia

On 9 May, the Commissioner published a report following his visit to Armenia from 18 to 21 January focusing on the human rights issues related to the March 2008 events, fundamental freedoms (including expression, assembly and association) and the human rights situation in the army.

While acknowledging that the Armenian authorities have taken several measures which led to the release of many of those deprived of their liberty in connection to the events of 1 and 2 March 2008, the Commissioner continued to have serious concerns about those who remained in detention at the time of the publication of the report. The Commissioner therefore welcomes the release of all the remaining opposition activists jailed in connection to the March 2008 events after the publication of his report.

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 which has been undertaken by the Armenian authorities and stressed the importance of consultation with civil society actors in this process. He encouraged reforms of the police, security services and other law enforcement bodies with a particular view to eradicating the phenomenon of violence and abuse perpetrated by law enforcement officials. In this regard, the Commissioner believed 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. The Commissioner also urged the Armenian authorities to review the Law on Television and Radio and give due consideration to the proposals submitted by the Ombudsman and civil society in that regard. 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 recent progress regarding the implementation of the right to freedom of peaceful assembly, the Commissioner stressed that unlawful and disproportionate impediments on peaceful rallies, including those criticising the authorities, should be discontinued.

On the human right situation in the army, the Commissioner expressed grave concern over the cases of non-combat deaths, torture and ill-treatment occurring in the Armenian army. He urged the Armenian authorities to fully acknowledge this phenomenon and intensify their efforts, through prompt and effective investigations, to put an end to the impunity of perpetrators and responsible commanders. While he assessed positively the fact that human rights in the army were part of the public debate, he urged the Armenian authorities to dispel suspicion of the public over non-combat deaths and mistrust towards investigations carried out into these cases. The Commissioner stressed the need to enhance the role of independent human rights monitoring mechanisms with regard to the situation in the army. Regarding the right to conscientious objection, the Commissioner found that there was an urgent need to develop a genuinely civilian service option in Armenia and that all conscientious objectors who are in prison because of non-performance of military service should be released.

Report on Georgia

On 5 July 2011, the Commissioner published a report following his visit to 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 Georgia.

The Commissioner 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 more be done with a view to securing political independence of the High Council of Justice in practice. The Commissioner also called for the strengthening of the autonomy of the prosecution service in law and 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 free from harassment, abusive prosecutions and pressure, which they appear to be subject to in Georgia, according to some reports. The Commissioner urged the authorities to give full effect to the enhanced defence rights in the new Code of Criminal Procedure and highlighted that the imbalance between defence and the prosecution should 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 in a clear and transparent manner 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 also 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. The Commissioner finally recommended that steps be taken to ensure greater participation of the victim during investigation and trial, and that information be provided to the public on the outcomes of investigations.

Letter to the Minister of National Education of the Republic of Turkey

On 20 April, the Commissioner published a letter addressed to the Turkish Minister of Education, Ms Nimet Çubukçu. In his letter, the Commissioner referred to the recommendation he made to the Turkish authorities in 2009 to address certain shortcomings in providing access to education for migrant children. While welcoming a number of positive steps taken by the Turkish authorities since that recommendation, the Commissioner noted that the migrant children or their legal guardians were still required to have a work or residence permit in order for those children to receive education. The Commissioner expressed his concern that this would effectively hinder the education of migrant children in an irregular situation, contrary to Turkey's international obligations. The Commissioner also encouraged the Turkish authorities to remove the legal obstacles preventing children of Armenian migrant families from attending the private schools of the Armenian minority in Turkey.

The reply of the Turkish Minister of Education is available on the Commissioner's website.

Letter to the Minister of Health, Social Policy and Equality of Spain

On 1 June, the Commissioner published a letter addressed to Ms Leire Pajin, Minister of Health, Social Policy and Equality of Spain and her reply. The letter followed up on the Commissioner's visit to Spain from 4 to 6 April .

In his 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.

The reply from the Spanish Minister of Health, Social Policy and Equality is available on the Commissioner's website.

Letter to the Prime Minister of Slovenia

On 7 June, the Commissioner published a letter to the Prime Minister of Slovenia, Mr Borut Pahor, following his visit to Slovenia from 7 to 8 April 2011 focusing on the human rights of Roma and the situation of the 'erased' persons.

In his letter 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 the increased inclusion in pre-school education is a good initial step towards resolving this problem.

The Commissioner also discussed the situation of the 'erased' persons with the authorities. 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 have so far 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.

The reply from the Slovenian Prime Minister is available on the Commissioner's website.

Report on Malta

On 9 June, the Commissioner published a report following his visit to Malta from 23 to 25 March. The report focused on the protection of the human rights of migrants, including asylum seekers, and examined in particular their situation with respect to reception, access to international protection and the availability of durable solutions in Malta.

The report stressed that appropriate solutions to current human rights challenges in these fields can only be found through concerted efforts by Malta itself and its European and international partners. The uncertainty regarding the armed conflict in Libya and its possible impact on migration should not delay these efforts, but act as a catalyst for undertaking them and putting the values and standards of the Council of Europe into practice.

Regarding reception, the Commissioner considered the policy of mandatory administrative detention for all arriving migrants, including asylum-seekers, to be at variance with human rights standards and called on the Maltese authorities to implement alternatives to detention and make effective remedies to challenge detention available. While material conditions in a number of centres for migrants were adequate, some of the open centres, such as the tent village in Hal-Far, were unsuitable for accommodating migrants and the Commissioner recommended their closure. It was also essential to avoid accommodating vulnerable groups, such as families with children and pregnant women, in the bigger open centres, where access to adequate care could not be ensured.

As concerns access to international protection, the Commissioner called on Malta to continue its long-standing tradition of rescue at sea, which has saved thousands of lives in the past years. He stressed that when they exercise effective control over third-country nationals rescued or intercepted at sea, states have obligations that go beyond search and rescue and include ensuring access to asylum determination procedures and *non-refoulement*. The Commissioner welcomed progress in several aspects of the asylum system in recent years, including shorter times to process applications, improved provision of information on the asylum system, and the increased rate of recognition of refugee status. Improvements are however still necessary in both first and second instance proceedings, including as concerns access to legal aid and case files.

As regards durable solutions for migrants in Malta, the Commissioner noted that recent progress in securing relocation and resettlement of migrants from Malta to other countries should be matched by similar efforts in Malta to establish viable, long-term avenues for local integration. This could include the discontinuation of the system that currently makes financial support conditional on residence in the open centres and the making of financial support and social assistance available to all beneficiaries of international protection. Racist and xenophobic tendencies and discrimination must be combated more forcefully. A public, and notably political and media, debate on immigration that fully reflects the importance of human rights and human dignity is key to

this endeavour. A robust public information strategy to favour migrants' local integration should also be developed, targeting civil society, education institutions and the labour market and including a strong focus on equality and non-discrimination.

The report is available on the Commissioner's website, together with the comments of the Maltese authorities.

Letter from the Czech Minister of Education, Youth and Sport

On 4 April, the Commissioner received a letter from the Czech Minister of Education, Youth and Sport, Mr Josef Dobeš, referring to the Commissioner's November 2010 visit and informing him about the Czech government's resolution on the establishment of a Romani Holocaust Memorial. The main aims of the Memorial will be to commemorate the victims of the Romani Holocaust in former Czechoslovakia and to create an information and education centre for children, youths and the general public offering detailed information on Romani history, especially during World War II.

Letter from the Minister of State for Government Communication of Hungary

On 16 June 2011, the Commissioner received a letter from the Minister of State for Government Communication of Hungary, Mr Zoltán Kovács, transmitting the comments of the Hungarian authorities concerning the Commissioner's Opinion on Hungary's media legislation in light of Council of Europe standards on freedom of the media (CommDH(2011)10, of 25 February 2011). In this document, the Hungarian authorities provided additional information on the relevant laws, as well as on legislative amendments adopted on 7 March 2011. They also provided the Commissioner with their evaluation of the legal provisions concerned and of the relevant Council of Europe standards. The letter and the attached document are available on the Commissioner's website.

4. Themes

Human Rights of Roma and Travellers

On 28 June, the Commissioner published a Human Rights Comment entitled "Politicians using anti-Roma rhetoric are spreading hatred". The Commissioner stressed that politicians have a special responsibility 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, this type of speech has many negative consequences on the human rights of the persons concerned: it can encourage violence against them; prevents them from enjoying their rights on an equal footing with others; and frustrates efforts made by the Roma communities themselves to break out of their marginalisation and relate positively to the rest of society. Responsible leadership should make sure that anti-Roma speech is condemned and should promote knowledge of Roma and Travellers' culture and history among the majority populations.

As mentioned above, the Commissioner has addressed different aspects of the protection of the human rights of Roma and Travellers in his recent visits to a number of

countries. In Spain, where a number of good practices were observed, the Commissioner noted in particular the ACCEDER programme, which has facilitated access to the labour market by Roma since 2000, with 58 000 people having taken part to this programme, and 40 000 employment contracts for Roma concluded. During his visit to Slovenia, the Commissioner identified examples of good practices in education and political participation of Roma. However, he emphasised the need to effectively address the remaining problems related to access by Roma to adequate housing and quality education in some parts of the country. In Italy, where anti-Roma political discourse was in focus, the Commissioner was concerned at posters displayed in Milan at the end of May during the municipal elections warning against the risk of the city turning into a “Gypsy town”. In Serbia, the Commissioner noted the progress in the protection of the human rights of Roma, notably in their access to education and health care. However, he remained concerned at the persisting non-registration of Roma children upon their birth and lack of personal identity documents.

Human rights of LGBT persons

On 23 June, the Commissioner launched a report on the subject of 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. It identifies serious flaws as well as 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.

Representatives of the 47 member states, national human rights structures and NGOs attended the one day launch meeting in Strasbourg, during which the main results were presented. Representatives of the European Union Fundamental Rights Agency, ILGA-Europe and Transgender Europe delivered statements in support of the report. High level representatives of member states addressed the meeting: Mr Jasenko Selimović, State Secretary, Ministry of Employment of Sweden, Mr Lionel Veer, Human Rights Ambassador, The Netherlands, Rt Hon Dominic Grieve, QC, MP, Attorney General for England and Wales and Ms Sabine Leutheusser-Schnarrenberger, Minister of Justice of Germany. 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 and the World Health Organization. All statements can be read on the Commissioner’s website.

The Commissioner considers this report as a tool for dialogue with member states. In order to further disseminate the report, the Office of the Commissioner has planned a Roundtable with government representatives (24 November, Bern) and a Roundtable together with the European Union Agency for Fundamental Rights (22-23 September, Vienna).

The report was presented on 27 June to staff members of the Netherlands Ministry of Foreign Affairs in The Hague, and on 29 June to staff members of the Office of the United Nations High Commissioner for Human Rights, in Geneva.

Launch of webpage on good practices

On 8 April, international Roma Day, the Commissioner's webpage on good practices was launched with examples of good practice from member states for promoting the human rights of Roma.² Good practices for the protection of human rights developed in member states raise awareness of tested solutions to human rights problems and can also serve as a source of inspiration to other countries. With this aim in mind, the Commissioner invited member states to contribute a good practice example from their country. Each country makes its own choice for the example and its theme.

The first descriptions of good practice made available come from Finland, Latvia, Slovenia and Spain and relate to the protection of the human rights of Roma. More examples on several other human rights themes will be made available progressively in co-operation with the national authorities concerned. The initiative is part of the on-going dialogue between the Commissioner and the member states.

Human rights of migrants

On 19 May, a member of the Commissioner's Office participated in a Conference on migration and housing rights in Europe, organised by the FEANTSA (the European Federation of National Organisations working with the Homeless) in The Hague.

On 8 June, the Commissioner published a Human Rights Comment on the drowning tragedies in the Mediterranean, insisting on the imperative principle of "rescue at sea". Since the beginning of the year, at least 1400 migrants have lost their lives while trying to reach Europe. Besides the responsibility of smugglers, who take on board far too many migrants in unsuitable boats, the Commissioner stressed that European governments and institutions have more responsibility for this crisis than they have demonstrated so far. The Commissioner concluded that something has gone dramatically wrong when preventing migrants from coming has become more important than saving lives.

On 24 June, a member of the Commissioner's Office took part in a workshop organised by PICUM (Platform for International Cooperation on Undocumented Migrants) in Brussels and entitled "Advocating for the Human Rights of Undocumented Migrants: Strategies, Successes, and Opportunities".

Children's rights

Issue Paper on adoption

On 28 April, the Commissioner published an Issue Paper entitled "Adoption and children: a human rights perspective". In Europe, national and inter-country adoptions raise a number of concerns regarding the respect of children's rights. The issue paper highlighted the relevant existing 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.

² http://www.coe.int/t/commissioner/activities/goodpractices/default_en.asp

The Issue Paper addressed the most challenging issues including non-regulated or “private” adoption, the adoption of children with specific needs and adoption taking place following natural disasters. It insisted on the necessary procedural safeguards to ensure that all actors involved in the process of adoption fully respect children’s rights. Analysing the situation of prospective adoptive parents, it recalled that there is no “right” to a family. Adoption should first be in the best interest of the child.

In his recommendations, the Commissioner called 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 called 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. The dissemination of false information may be combated by providing accurate information on inter-country adoptions.

Sexual abuse of children

In a human rights comment entitled “Zero tolerance for sexual abuse of children”, published on 5 May, the Commissioner noted the need to break the silence around this widespread phenomenon. Scandals are not limited to religious childcare institutions but affect all childcare structures. Even more in number are the cases of abuse perpetrated behind the family door. Very often the abuser is someone the victim knows, trusts or depends on. For the Commissioner, sexual assault against children is an urgent human rights issue and fighting it should be a judicial but also political priority. The 2007 Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse and the current Council of Europe campaign on the topic should be further supported. Creating safe spaces in which children can talk with confidence about what is happening to them will help victims to speak out.

On 5 May, the Commissioner gave a talk at a Regional Consultation on Save the Children Child Rights Governance Global Initiative in Brussels. The Child Rights Governance Initiative is one of the thematic priority areas of the current Save the Children strategy. The Commissioner highlighted the need to implement the principles of the UN Convention on the Rights of the Child in the local context and in setting the NGO agenda for child rights governance.

Right to privacy and data protection

On 27 April, the theme for a Human Rights Comment was Social Networks. The Commissioner wrote that online connectivity can translate into real-life, positive social change, giving Tunisia and Egypt as examples. But he warned that this observation must also give rise to a different human rights question: what protections are in place to ensure that our personal data cannot be trawled from those networks and put to altogether different, less salutary purposes? More often than most of those who volunteer their data might imagine, it is being monitored, and analysed, shared and used. The Commissioner concluded that it falls to our national and international authorities to ensure that our individual rights to privacy and data protection are not sacrificed to Social Networks, but rather reinforced to recognise and meet the new challenges.

Social rights

On 14 June, The Commissioner published a Human Rights Comment discussing the radical austerity measures that have been introduced in several European countries. He stressed that although governments have stated that they will try to minimise the negative social impacts, it is already clear that there have been – and will be further – serious consequences for the most vulnerable groups: the very poor, persons with disabilities, the elderly and others in need of constant care. The Commissioner concluded that those already disadvantaged have no belts to tighten and must not be asked to make sacrifices for a crisis which was not of their doing.

Freedom of expression, media independence and media diversity

Media Freedom Lecture on access to official documents

The Commissioner's second media freedom lecture took place on Word Press Freedom Day, 3 May, at the Council of Europe's Office in Brussels. The Swedish Parliamentary Ombudsman, Mr Hans-Gunnar Axberger spoke about access to official documents³. The presentation was followed by a commentary from the European Data Protection Supervisor, Mr Peter Hustinx, as well as a comment from the Commissioner and questions from the audience.

Participants agreed that a right to know about the decisions taken by elected politicians and public administration is needed to ensure transparency and hold governments accountable. Lack of an effective legal framework, a culture of secrecy, delays in processing information requests, high fees, poor management of official records, and broadly and vaguely defined national security laws were identified as hurdles to effective access to public information. The Commissioner recalled that international standards are available, referring to the Council of Europe Convention on Access to Official Documents. He also encouraged the creation of a mechanism which would monitor the implementation of the right to access to official documents. He mentioned that in some countries the same Ombudsperson deals with access to information and data protection, as an interesting example.

Media Freedom Lecture on protection of journalists from violence

The third Media Freedom Lecture was held on 7 June, at a side event of an OSCE conference in Vilnius, Lithuania. The OSCE Representative on Freedom of the Media, Dunja Mijatović, made a presentation about the protection of journalists from violence. The Commissioner's comments were followed by questions from the public.

The OSCE Representative emphasised in her presentation that without ensuring the safety of journalists, other efforts to protect media freedom are in vain. She underlined that besides physical violence journalists also encounter psychological violence, which is often less visible such as being harassed, persistently followed and watched, intimidation and threats including of and to family members. This sort of violence is difficult to measure but has a devastating effect silencing journalists who write critically about important issues, the Representative said. She pointed out that improvements in this

³ Under the 2009 [Council of Europe Convention on access to official documents](#), "official documents" means all information recorded in any form, drawn up or received and held by public authorities.

area can only be achieved with committed governments and with the co-operation of authorities.

In his own statement the Commissioner stressed that to protect journalists from being harassed, beaten up or even killed is important, but not enough. It is always necessary to bring to justice the one who pulled the trigger but in order to effectively tackle impunity it is also necessary to investigate, prosecute, judge and punish the ones who planned and financed the crime, the Commissioner pointed out.

Media Freedom Lecture on public service media and social media

On 10 June, the fourth and fifth Media Freedom Lectures took place in London, hosted by the freedom of expression organisation “Article 19”.

Public Service Media and Human Rights

Ms Barbora Bukovská and Mr Boyko Boev, Article 19, lectured about public service media. At the outset, they noted that public service media should be independent, impartial and accountable, adding that public service media also encompasses online media. The experts explained that in a number of European countries public service media has little support and is regarded as the mouthpiece of the government. As a consequence, the need and usefulness of public service media is put into question by some and its financing is insufficient or not secured.

The speakers argued for a human rights approach towards public service media. This means, among other things, that media policies and legislation concerning public service media should be informed by international human rights standards and by legislation from other countries reflecting these standards. For example, rules concerning the public remit of public service media should take into account the right to non-discrimination so that no groups are excluded from public service media. The human rights approach also has the advantage, according to the lecturers, that the different stakeholders can be identified as duty bearers (for instance, authorities are duty bearers as they have an obligation to allocate frequencies in a way which promotes media pluralism) and rights holders (the viewers, listeners and readers have a right to impartial, non-discriminatory reporting).

Social Media and Human Rights

Professor Douwe Korff, Professor of international human rights law at London Metropolitan University, presented the second lecture of the day. Pointing out that social media has empowered political activism and strengthened freedom of expression, he cautioned that some governments are increasingly trying to control online content and social media.

The speaker underlined that while having opened up opportunities for a freer flow of information, social media also has greatly enhanced the possibilities for surveillance, which triggers questions regarding the right to privacy and data protection.

Some of the most common measures are the blocking and filtering of online content. Professor Korff noted that blocking measures are problematic because they are often neither proportionate nor effective. Typically, the blocking of websites may not only affect

the illegitimate content, such as child pornography, but also make inaccessible other content albeit protected under the right to freedom of expression. This means that often the blocking and filtering is not proportionate and, therefore, at variance with the European Convention on Human Rights. Professor Korff recalled that any measure taken by governments affecting social media needs to be in full compliance with human rights law: there needs to be a sufficient legal basis, the measure needs to pursue a legitimate aim and has to be necessary in a democratic society. He added that in practice blocking measures can be circumvented by the ones who are determined to do so with relative ease. The speaker argued that a more efficient way to deal with illegitimate online content, such as child pornography, is to improve international co-operation between law enforcement officials and not just block, but to remove such content.

5. Other Meetings

Visit to European institutions in Brussels

On 4 May, the Commissioner visited Brussels for talks with representatives of EU institutions. He met with Mrs 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 a meeting with Mr Staffan Nilsson, President of the European Economic and Social Committee, the Commissioner raised the impact of the economic crisis on the implementation of social and economic rights. The treatment of immigrants and Roma was also referred to in the discussions.

The Commissioner met with Mr Miroslav Lajčák, Managing Director for Russia, Eastern Neighbourhood and Western Balkans in the EU External Actions Service. They exchanged information on current human rights developments in a number of countries in South-East and Eastern Europe.

The Commissioner also held talks with representatives of several civil society organisations including the European Council of Refugees and Exiles and the European Roma Information Office. In a meeting with Ms Louise Arbour, President of International Crisis Group, the Commissioner discussed possible co-operation regarding conflict regions.

Conference on “The dialogue between General Prosecutors in Europe: Justice Bodies, Promoters of Human Rights”

On 27 May, the Commissioner delivered a speech to this Conference, which was organised in Rome by the General Prosecutor of Italy’s Supreme Court of Cassation. The Commissioner, who intervened in a session focused on the topic “From Strasbourg to Brussels – Recommendation Rec(2000)19 – Article 86 of the Treaty”, recalled the guidance provided by the Committee of Ministers’ Recommendation, notably in avoiding conflict of interest situations and in securing the necessary separation between the role of the prosecutor and that of the judges. The Commissioner also focused on the role of

the prosecutors in ensuring that the justice systems work effectively *vis-à-vis* certain vulnerable social groups, including: juvenile offenders; victims of racism and xenophobia; migrants; and victims of trafficking.

European Institute for Gender Equality (EIGE)

On 8 June during his mission to Lithuania the Commissioner met with the Director of the European Institute for Gender Equality (EIGE), Ms Virginija Langbakk. Discussions focused on a number of human rights issues related to gender, such as non-discrimination in the labour market, equal pay, gender stereotypes and gender identity. In addition, possible ways of co-operation between the Office of the Commissioner and EIGE were discussed.

Exchange of views with the Subcommittee on Human Rights (DROI) of the European Parliament jointly with the Committee on Civil Liberties, Justice and Home Affairs

On 9 June, the Commissioner participated in an exchange of views with members of the Subcommittee on Human Rights of the European Parliament. He started by highlighting some areas of particular concern in his work, notably the human rights 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, as well as freedom of the media. In the subsequent discussion, the Commissioner replied to a number of questions asked by MEPs relating to the co-operation between the European Union and the Council of Europe, the situation of Roma in Europe, children's rights and rights of people with disabilities.

Annual meeting of European Federation of Journalists

In the context of his visit to Serbia, the Commissioner gave a speech at the annual meeting of the European Federation of Journalists held on 16 June in Belgrade. He first outlined some of the main threats to media freedom: violence against journalists, insufficient protection of journalists' sources, ineffective access to information, too little or lack of media diversity, not sufficiently independent media, absence of impartial, accountable and financed public service media, self-regulation which is not working and unethical journalism.

To protect and promote media freedom all these issues need to be dealt with, the Commissioner told the audience. Authorities need to bring the perpetrators responsible for violence against journalists to justice, including the ones who planned and paid for the crime. Journalists' sources need to be protected both in law and practice. Exceptions should be clearly and narrowly defined. The right to access to public information needs to be effectively respected and protected by states. Media policies and legislation need to protect and promote media pluralism. The allocation of broadcasting frequencies is particularly important. Public service media need to have a defined public remit, be independent, given the necessary financial and other resources and be held accountable.

The Commissioner also emphasised that media professionals have a strong interest in a well-functioning self-regulation system. Self-regulation, he added, will only work if the

process is owned, from the very beginning, by the media and all participating media is strongly committed to the self-regulatory system.

6. Human rights defenders

Sakharov project

Within the period covered by the present report, the exhibition 'Alarm and Hope' on the life and human rights work of Andrei Sakharov travelled to Russia and Scotland. In Russia, the exhibition was displayed in the margins of the international conference entitled "Andrei Sakharov: Alarm and Hope 2011" dedicated to the 90th anniversary of the birth of Nobel Peace Prize winner and physicist Andrei Sakharov.

In Scotland, the exhibition was opened on 11 June at the Scotland-Russia Institute. The exhibition is being displayed until the second half of July in the framework of the programme "Human Rights in Russia Past and Present" organised by the Scotland-Russia Institute.

Sakharov Conference in Moscow

The Commissioner took part in a conference on 20 and 21 May in Moscow dedicated to the 90th anniversary of the birth of Nobel Peace Prize laureate and physicist Andrei Sakharov. The international conference entitled "Andrei Sakharov: Alarm and Hope 2011" commemorating the 90th anniversary of birth of A.D. Sakharov was organised by the Moscow Andrei Sakharov Museum and Public Centre with the support of the Andrei Sakharov Foundation based in New York and of Dynasty Russian Charitable Foundation. The Commissioner addressed the audience at the opening of the conference, made a speech on "The relevance of Andrei Sakharov's message on human rights in today's world" and participated in a press conference. The Commissioner highlighted the role of Andrei Sakharov for the human rights movement, his personal moral example of acting in defence of human rights and the relevance of his ideas in the contemporary world. The conference gathered prominent human rights defenders, researchers, intellectuals and political figures from Russia and around the world. The conference contributed not only to the preservation of Sakharov's name, ideas and legacy but to framing the current human rights challenges and solutions. The conference provided an opportunity to present the Russian language book "Andrei Sakharov and Human Rights" (Council of Europe Publishing). The English version of the book was published in December 2010.

Human Rights Defenders in Belarus

On 25 May, the Commissioner published a Human Rights Comment on the situation of Human Rights Defenders in Belarus following the forced dispersal of a peaceful demonstration in the evening after the elections of 19 December 2010. The Commissioner pointed out severe persecutions against opposition politicians, civil society groups, human rights defenders and media. He drew the attention to politicised court proceedings during which false charges against peaceful demonstrators turned into sentences with imprisonment or heavy fines. Human rights defenders have been subjected to intensified restrictions of their activities; the authorities resorted to searches,

warnings against individuals and organisations, computers and data storage confiscation. The Commissioner mentioned that two independent newspapers were closed and members of the journalists' association received warnings. He also pointed out that the introduction of criminal liability for activities of non-registered NGOs (Article 193.1 of Criminal Code) became an instrument for exerting pressure and control over human rights actors. The Commissioner stressed the need to extend constructive support to civil society in this European country, given that its citizens cannot benefit from support from the Council of Europe's mechanisms and programmes.

Informal meeting between Inter-American and European human rights mechanisms on the protection of human rights defenders and journalists

Representatives of the Inter-American Commission on Human Rights, the Inter-American Court of Human Rights, the European Court of Human Rights and the Office of the Commissioner for Human Rights discussed 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 Commissioner for Human Rights led the meeting which was organised by his Office on 17 June.

7. European Court of Human Rights

Izmir Conference

On 26 and 27 April, the Commissioner attended the High-Level Conference on the Future of the European Court of Human Rights in Izmir (Turkey). The Commissioner gave a speech focusing on measures to be taken by member states to address the increase in the number of requests for interim measures, and on the necessity of ensuring the effective implementation of the European Convention on Human Rights at national level. A declaration was adopted at the close of the Conference.

Follow-up to the Interlaken Declaration

During his visits to member states of the Council of Europe, the Commissioner continued to draw the authorities' attention to the need for a prompt implementation of judgments issued by the European Court.

During his visit to Georgia for instance, the Commissioner raised a number of issues concerning the administration of justice, in particular the right to a fair trial. The Commissioner referred extensively to the case-law of the European Court under Article 6 of the Convention, underlining that people charged with crimes should benefit from the presumption of innocence, and have adequate time and facilities to prepare their defence. He urged the authorities to respect the right to an adversarial trial and equality of arms, firmly established in the case-law of the European Court.

The Commissioner also expressed his concerns regarding the situation of the 'erased' persons in Slovenia, an issue which is at present being considered by the European Court in the case of *Kuric and Others v. Slovenia*, pending before the Grand Chamber. In a letter published on 7 June 2011, the Commissioner noted that the 'erasure' has had

a serious negative impact on the enjoyment of basic human rights by the 'erased' persons, including the right to respect for private and family life, and economic and social rights. He considered that the amended Law, which entered into force in 2010 and should enable the 'erased' persons to submit requests for the restoration of their former status, did not fully remedy the negative impact that the 1992 'erasure' has had on the enjoyment of human rights by the 'erased' persons, in particular those who left or were forced to leave Slovenia. Finally the Commissioner called on the authorities to reconsider the relevant provision of the amended Law, in order to make less restrictive requirements so as to enable all of the 'erased' persons who wish to return to Slovenia and live there to do so.

8. Communication and Information work

Almost 300 news items were published from 43 countries on 32 topics. 67 news items were found in main media with an international reach (around 22% of the whole coverage). 16 press releases were sent out by the Commissioner. The media output is therefore similar to that of the first quarter, but slightly higher (10%) if compared to that of the same quarter of 2010.

The main topics covered by the media were the Commissioner's declarations and activities in relation to the situation of migrants and asylum seekers, Roma, Armenia, LGBT persons, media freedom and Georgia.

The Commissioner's declarations concerning migrants arriving in Italy and the need for enhanced co-operation and solidarity among European countries were reported by a large number of Italian media (*Left Avvenimenti*, *DNA*, *ANSA*, *SIR*, *Radio 24*, *ASCA*, *Swedish Radio*, *AFP*, *Il Manifesto*, *Il Quotidiano*, *AGI*, *Il Mattino*, *Leggo Online*, *TG Com*, *TG 1 Rai*, *Radio Rai*, *RTV*, *RFE*). Nordic media focused also on the reactions of the Danish Minister for Refugees, Immigrants and Integration to the Commissioner's declarations and the ensuing polemics (*Danish Broadcasting*, *Nordjyske*, *Die Presse*, *VG – NTB*, *Hardanger Folkeblad*, *Aftenbladet*, *Jydske Vestkysten*, *Aftonbladet*, *The Copenhagen Post*, *Politiken*, *Svenska Dagbladet*, *Information*). Articles mentioning the Commissioner's criticisms of the European, Greek and Italian policies were published by *La Repubblica*, *DPA*, *The Prague Post*, *Sunday Business Post*, *Trouw*, *EurActiv*, *Les Nouvelles*. The Commissioner's comment on rescue of migrants at sea and the report on Malta have been widely covered by the media (*Malta Today*, *Malta Independent online*, *Deutsche Welle*, *EFE*, *ABC*, *Di-Ve*, *Info Maroc*, *Ansa*, *FOCUS News Agency*, *The Times of Malta*, *Immigrazione Oggi*, *La Croix*, *Berliner Morgenpost*, *Neues Deutschland*, *Saarländischer Rundfunk*, *Proasyl*, *N24*, *Shekulli*, *Deutschlandfunk*, *AFP*, *Stern*, *Edizioni Oggi*, *ATS*, *Il secolo XIX*, *Il Giorno*, *New Europe*, *Al Jazeera*, *Agence Europe*, *L'Humanité*, *Le Nouvel Observateur*, *Swedish Radio*, *Dnevnik*, *STA*, *Trouw*, *Nordlittoral*).

The Roma situation was also a topic widely covered during this quarter, in particular in connection with the Commissioner's visits to Spain and Slovenia, as well as the publication of the annual report (*Mladina Romano Vod'i*, *Ansa*, *ČTK*, *Monitorul*, *Delo*, *Dnevnik*, *Hürriyet Daily News*, *STA*, *Radio Slovenia International*, *STA*, *Cadena Ser*, *Jydske Vestkysten*, *Dagen*, *Noticias de Madrid*, *Meri News*, *SIR*, *People's Daily Online*, *EFE-ABC*, *Europa Press*, *El Mundo*, *La Repubblica*, *Agence Europe*, *New Europe*, *EFE*, *Swedish Radio* and *Radio Vaticana*).

The Washington Post, Nepszava, Publico, Ria Novosti, Origo and The Inquirer referred to the need to improve media freedom and investigate cases of violence against them. The Human Rights Comment on social networks and their human rights implications was covered by *EFE, Peru.com, La Opinión de Málaga, La Opinión de A Coruña, La Provincia-Diario de Las Palmas, and Faro de Vigo-Información. Interfax news, Baltic Daily, APA* and *SIR* referred to the Commissioner's participation in the OSCE conference on violence against journalists while *Tanjug, B92 and International Radio Serbia, ANSA, APA-Der Standard, SDA-ATS, AFP, Oman Daily Observer, ADN Kronos, TMNews* and *L'Express* mentioned the Commissioner's visit to Serbia and his participation in the annual meeting of the European Federation of Journalists. *The Guardian* mentioned the Commissioner in an article on Internet freedom while *The Frankfurter Allgemeine Zeitung* published news on Fatullayev's visit of to Strasbourg, referring to the support he received from the Council of Europe, including the Commissioner.

The Commissioner's observations which concluded his visit to Georgia were largely covered by the media, in particular national ones (*Georgia Times, Prime News, Rustavi2 TV, News.ge, IHS Global Insight Daily Analysis, SIR, Trend, Radio Liberty, IA Regnum ITAR-TASS, The voice of Russia*).

The publication of the report on Armenia was extensively covered by national media, in particular *Aravot, Public Radio,168, News, Armenia Liberty, Epress, Armenia Today, Armenianow, ARMINFO News, Lragir, Nouvelles d'Arménie, Eurasianet, SIR, News Aysor, Hetq Trend Osservatorio sui Balcani e Caucaso, Armenpress, EurasiaNet and PanARMENIAN.Net*.

The Sunday Times, Fyne News, Universogay, MediaPart, Yagg and *ASCA* mentioned the Commissioner's work on the human rights of LGBT persons and its statement on the situation in Russia concerning the Pride march. The presentation of the LGBT report attracted wide media attention too (*Libération, EFE, BNS, Lrytas, PanArmenian, News, RIA Novosti, Expatica, Publico, Yagg, NU, ANP, Trouw, Nieuwsbank, Radio Netherlands, New Europe, Visir, MBL, Xtra*).

The assessment of human rights in Europe made in presenting the annual report was echoed by *Yle, Publico, Fenêtre sur l'Europe, Europa Press and Dagens arena EurActiv*.

APA, News, Panorama, Times, PanARMENIAN.Ne and *Public Radio of Armenia* focused on the Commissioner's comments on the peaceful resolution of the conflict in Karabakh made during question time at the Parliamentary Assembly.

The letter to the Turkish Minister of Education, in which the Commissioner called for access to education to be ensured for all migrant children, was covered by *Hürriyet Daily News* and *Agence Europe. Euronews* featured the Commissioner in a news item on the implementation in Turkey of the judgments of the European Court of Human Rights.

Agence Belga and *7sur7* mentioned the Commissioner's concerns about forced returns to Kosovo in an article on the readmission agreement while articles on children's rights and adoption were published by *De Gazet van Antwerpen, Zita, European Movement, Place publique, SIR, EFE* and *ABC*.

The visit to Russia was covered by *BBC*, *RIA Novosti*, *The Voice of Russia*, *ITAR-TASS*, *Kavkaz-uzel.ru*, *Vestnik Kavkaza* and *Radio Free Europe*. The human rights comment on the situation in Belarus was mentioned by *Charter 97*, *New Europe*, *BelaPAN*, *Telegraf* and *SIR*.

The Human Rights Comment on austerity budgets triggered a debate in the UK, mainly raised by an article published by *The Telegraph*. *SIR* and *Newpost* also mentioned the Commissioner's article.

Further mentions concerned the human rights of persons with disabilities (*Zaman*), the entry into force of the French law on the burqa and the draft law in Belgium on the same issue (*El Diario Montañés*, *RTL* and *Le Soir*), prisoners' voting rights (*Prison Reform Trust*), torture (*Il Levante*), women's rights (*Ria Novosti*), Islamophobia (*Today's Zaman*), the human rights situation in Romania (*Radio Romania*), the law on abortion in Ireland (*Irish Times Lifesite News*), hate crimes (*ANSA*), Amnesty International's 50th anniversary (*Osnabrücker Zeitung*, *National Times*), and the Sakharov conference in Moscow (RFI).

On 13 April the Commissioner launched the ISBN book "Human Rights in Europe: no grounds for complacency". The texts are based on the Commissioner's updated Viewpoints and address 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 was the theme for two open seminars, on 3 May in Brussels at The Centre for European Policy Studies, CEPS, and on 10 June at the European Council on Foreign Relations, ECFR, in London.

On 3 May, a web page dedicated to media freedom, independence and diversity was published. It provides information on the Commissioner's work in this area, with easy access to related documents, such as reports, articles, speeches, statements and recommendations concerning freedom of the media. A similar page was published on June 23 on the human rights of LGBT persons.

The list of Human Rights Comments published so far is as follows:

Austerity budgets tend to victimise the most vulnerable – 14 June
African migrants are drowning in the Mediterranean – 8 June
Human Rights Defenders in Belarus are severely persecuted – 25 May
Zero tolerance for sexual abuse of children – 5 May
Social Networks: potential for social change – 27 April

9. Next three months

July/August

7-8 July CommHR Media lecture #6 by Miklos Haraszti, side event at OSCE Side Human Dimension Meeting (SHDM) on media pluralism (Vienna)

12 July Publication of CommHR report on Turkey

September

07 September CM: Presentation Quarterly Report 2/2011 to CM - *tentative*

12 September Hearing on the state of media freedom in Europe in the Swedish Parliament, organised by the PACE Sub-Committee on the media (Stockholm)

13 September Lunch meeting with ALDE/LIBE MEPs (Strasbourg)

19-20 September Conference of Ministers of Justice on Prevention of Human rights violations (Kyiv)

22 September Congress Summit of Mayors on Roma (Strasbourg)

26-28 September Visit to Slovakia

29 Sept–1 Oct Conference on rights of the aged; 2nd Session of the Polish Council for Combating Racial Discrimination and high-level meetings (Warsaw)

10. Observations and reflections

Once again, I have been reminded how much remains to be done before the marginalisation of the Roma population in European countries is finally stamped out. The examples of good practices I noticed in Spain and Slovenia pale in comparison to the abject misery in which so many Roma live today. Of course, it will take time before improved schooling yields sustained social results. But two things ought to be attainable within a shorter timeframe: 1) putting an end to illegal evictions and ensuring better housing standards, and 2) ensuring that all have personal identity documents and are no longer treated as stateless. Even such obvious steps will require a more energetic effort to put an end to wide-spread anti-Gypsyism, to which some politicians have also contributed.

A major but hidden human rights problem is the discrimination of people with disabilities, in particular persons with mental health problems or intellectual disabilities. One problem – which has been brought to the European Court of Human Rights – is the removal of legal capacity: the frequency of such decisions and the criteria used for their determination. Furthermore, there is a need to dismantle the old-style institutions where

disabled persons are kept, in many cases under appalling conditions. I hope that this problem will be taken up by all relevant Council of Europe structures.

The report on LGBT persons received a positive response but we should have no illusions about what remains to be done in order to counter prejudices in this area. 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 explain the issues and make clear that international standards and national legislation already prohibit discrimination against these groups. These education efforts cannot be left only to the LGBT persons themselves.

Another area on which I hope for more activities by all relevant parts of the Council of Europe is media policy – in relation to freedom of expression and the protection of individual integrity. The new media landscape has made these issues even more acute. As basic values are at stake this is clearly an issue for the Council of Europe.

Migration will continue to be a controversial issue in Europe. I have tried to contribute to the efforts against xenophobia and hate speech and at the same time propose human rights based approaches to asylum procedures and the treatment of migrants. Recognising that the present political climate is heavily influenced by anti-foreigner sentiments, there is a risk of too much compromise towards the discourse of extremists. Hopefully, the discussion of the report of the eminent persons – “Living together” - will contribute to a shift of perspective.

The continued discussion about the overburdening of the European Court of Human Rights should include a more thorough analysis of the shortcomings of the national justice systems. Corruption and political interference are still flagrantly present in several member states. The allegations by opposition forces in some of them about “political prisoners” are not without some ground. Though I have problems with the very term “political prisoner” as a legal concept, I have had to conclude that there have been situations where people have been put in prison or got extreme sentences for minor crimes because of their political positions. I am also worried about complaints I have received about fabricated “proofs” - that weapons or drugs have been planted on persons in opposition and then used as “evidence” in a judicial procedure. Of course, it is in the nature of such methods that it will be very difficult for outsiders to expose the truth.