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Presented to the Committee of Ministers  
and the Parliamentary Assembly



# CONTENTS

1.	Preface by the Commissioner.....	4
2.	Role of the Commissioner for Human Rights.....	5
2.1	<i>Commissioner's Mandate: Voice of Conscience.....</i>	5
2.2	<i>Working Methods.....</i>	6
2.3	<i>Cooperation.....</i>	7
3.	Cooperation for Protecting Human Rights in Europe.....	8
3.1	<i>Council of Europe.....</i>	8
3.2	<i>European Union.....</i>	10
3.3	<i>Organization for Security and Co-operation in Europe.....</i>	12
3.4	<i>United Nations.....</i>	13
3.5	<i>Civil Society and Human Rights Defenders.....</i>	15
4.	Priority Issues during 2006.....	16
4.1	<i>Rights of Women.....</i>	16
4.2	<i>Rights of the Child.....</i>	18
4.3	<i>Human Rights and Terrorism.....</i>	19
4.4	<i>Measures against Xenophobia.....</i>	20
4.5	<i>Rights of Migrants.....</i>	21
4.6	<i>Roma Rights.....</i>	23
4.7	<i>Rights of Persons with Disabilities.....</i>	24
4.8	<i>LGBT Rights.....</i>	26
4.9	<i>Prison Conditions.....</i>	27
5.	Activities.....	28
5.1	<i>Introduction.....</i>	28
5.2	<i>Field Visits and Reports.....</i>	29
5.3	<i>Thematic Work.....</i>	30
5.4	<i>Promotion of National Human Rights Structures.....</i>	33
6.	Staff and Budget.....	34

## 1. Preface by the Commissioner

This is my report on the activities of my Office during 2006 after I took up my mandate as Commissioner for Human Rights on the 1st of April 2006.

My predecessor presented several reports to the Committee of Ministers before his departure, including a report on an Assessment Mission to France, a thematic report on the situation of Roma, Sinti and Travellers in Europe and several reports on follow-up visits undertaken by staff members to assess the implementation of the Commissioner's previous recommendations.

I would again like to express my respect to Alvaro Gil Robles for this untiring work in setting up the Office and giving it a concrete purpose. His efforts bore fruit in the sense that the Office itself gained respect all over Europe. For me this has been of tremendous help in my effort to follow in his footsteps.

As the Parliamentary Assembly is producing and publishing a major report covering human rights in the Council of Europe area, this report is more focused on the activities of the Commissioner.

It should be borne in mind that the reports on country missions and visits are published separately and can be found on the web site of the Commissioner for Human Rights at: [www.commissioner.coe.int](http://www.commissioner.coe.int).

However, apart from figures and facts of the activities, I wanted to give the reader a deeper understanding of two crucial aspects of our work. These relate to the importance of cooperation with other actors in the field of human rights and to the definition of priorities in the work for human rights in Europe.

Progress is being made in the efforts to establish better coordination with other parts of the Council of Europe and with the OSCE, UN and the EU structures working in this field. Cooperation and exchanges with non-governmental groups have also developed in a promising manner. This has to be taken forward in order to ensure that the combined effect of all our endeavours has a maximum impact.

Soon after my arrival to the Office I defined some topics which appeared to be particularly urgent in today's Europe. On these priority issues I sought to develop an analysis of the real problems and formulate recommendations which could be of use to governments responsible for enforcing the agreed European standards for human rights.

Nine of these topics are listed in this report, giving indications of what the Office did in these areas but also the positions I took in speeches and other statements.

Strasbourg, 1 April 2007



## 2. Role of the Commissioner for Human Rights

### 2.1 Commissioner's Mandate: Voice of Conscience

It is evident that international and European organisations with human rights mandates have recently embarked on a reform course after a thorough reassessment of their working methods and the situation of human rights more generally. Yet a closer look at the European system of human rights protection reveals that there continues to be a need for more systematic and comprehensive monitoring of human rights. While there is an abundant availability of human rights related information from a wide range of sources, the impact of current monitoring mechanisms is often constrained by their limited thematic or geographical scope, inability to access the highest level of government or lack of independence.

The formal mandate of the Commissioner for Human Rights<sup>1</sup> is broadly drafted and is therefore open to new interpretations by each incumbent. The independence and impartiality conferred on the Commissioner enable a pragmatic and flexible working style while the mandate authorises practically unlimited thematic scope of activities. All member states of the Council of Europe can come under the scrutiny of the Commissioner while the Commissioner is able to take up human rights concerns directly with their governments. The full potential of the institution is still to be explored although the realisation of the considerable expectations placed on the Commissioner, for example by the Group of Wise Persons and the Juncker Report, are restrained by the rather scarce resources put at the disposal of the Commissioner and the Council of Europe as a whole.

The Commissioner is determined that his work should now focus on the *implementation* of human rights standards. Member states have undertaken to respect a wide range of human rights through their adherence to European and international instruments and they should implement the agreed standards by genuine reforms. The Commissioner builds on these standards, the jurisprudence of the European Court of Human Rights, and the reports and recommendations of treaty bodies in seeking dialogue with all European governments with the objective of assisting them to bring about the necessary changes.

It is essential for the Commissioner to be as close as possible to local realities. He relates directly with national authorities, national human rights structures and civil society. Non-governmental organisations and other civil society representatives are important in all human rights work and often provide essential facts and a popular energy for genuine reform.

The impartiality and independence of the Commissioner must be carefully protected. The Commissioner avoids negative politicisation and ranking governments according to their perceived human rights records. On the basis of well tested facts, he provides constructive advice to all governments on how to improve the human rights situation. It is equally important that the Commissioner is ready to voice criticism when necessary. The purpose of the criticism is to help identify the actual problems in order for them to be addressed. In other words, the Commissioner is a voice of conscience.

Building a society based on human rights is a continuous process which calls for political will, popular support and certain investment. The Commissioner should encourage the governments of member states to address structural aspects in a systematic and sustainable manner. In a short outline, a human rights society requires legislation influenced by human rights principles, a competent and non-corrupt judiciary, a transparent public administration, a disciplined police force, a system for independent monitoring through an ombudsman or a human rights institution and a political culture which is open for criticism and ready to take action for reform. It also needs

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<sup>1</sup> Resolution (99) 50 of the Committee of Ministers on the Council of Europe Commissioner for Human Rights, adopted on 7 May 1999.

free media which seek and publish critical information, space for an active non-governmental community, and finally, concerted efforts for human rights education to ensure that all pupils and professionals are aware of their own rights and respect those of others.

Some countries have sought to review all these aspects in a comprehensive way by the means of a consultative process leading up to a national action plan on human rights adopted by the parliament. The Commissioner invites on all member states to consider this idea.

## **2.2 Working Methods**

When the focus is on implementing human rights standards, the Commissioner must be present in the field. Visits to member states are essential for carrying out the Commissioner's mandate as they enable the Commissioner to assess local realities while entering in direct contact with national authorities and representatives of civil society. The Commissioner has continued his predecessor's series of comprehensive assessment missions to member states which result in a report with recommendations to the authorities of the state concerned. Germany and Ukraine were visited by the Commissioner in 2006 and more such missions are scheduled for 2007 and 2008 to complete the cycle of visits to every member state initiated under the first mandate.

Yet there is also a need for a more continuous dialogue with the governments of member states and other stakeholders to ensure that the Commissioner's recommendations are followed up and that sufficient attention is given to acute human rights problems. Therefore, the Commissioner also makes visits with a more focused agenda to maintain contacts or address specific concerns. In addition, the Commissioner's Office carries out fact finding missions to member states in order to report of the progress made in implementing the Commissioner's recommendations.

The Commissioner intends to improve his capacity to monitor continuously the respect for human rights in all member states. Such a capacity is necessary for measuring progress made and prioritising the Commissioner's interventions in a timely and coherent manner. The objective is to set up country desks in the Commissioner's Office which will collect and analyse human rights information on every member state continuously. Working methods have to be developed and adequate human resources allocated to meet the challenge, including changes to the Office's structure. When the system of continuous monitoring is in place, the Commissioner will have greater flexibility in choosing his working methods and intervention tools for each task at hand. This will diminish his reliance on a cycle-type approach for visiting member states while allowing for more frequent missions when needed. The comprehensive coverage of the Commissioner's human rights monitoring would still be maintained.

In addition to a bilateral human rights dialogue with individual member states, the Commissioner actively contributes to the shaping of human rights policies in Europe more generally. This involves taking a clear standpoint on major human rights issues along with recommendations for responding to them. Thematic reports, recommendations, opinions, issue papers and viewpoints as well as participation in debates during conferences and through the media including the Commissioner's web-site are the Commissioner's principal tools in this field. On certain topical questions the Commissioner organises seminars and workshops of his own.

There is also a need to prioritise human rights problems to make certain that sufficient protection is provided to particular concerns. In 2006, the Commissioner's priority themes included counter-terrorism measures and human rights, the fight against xenophobia and discrimination, the rights of migrants, prevention of violence against children and the protection of human rights defenders. Several of these themes will remain among the priorities for 2007. Naturally, priorities have to be chosen against a broader background of human rights concerns and their prevalence in Europe. Continuous monitoring of human rights will improve the Commissioner's ability to determine both perennial and more short-term priorities.

## **2.3 Cooperation**

While the Commissioner must protect the independence of his office he also seeks common cause with many. He is determined to cooperate with others acting for human rights in Europe. Within the Council of Europe, the other institutions of the organisation are natural partners for the realisation of shared aspirations, including the Committee of Ministers and the treaty bodies and inter-governmental committees working under its authority, the Parliamentary Assembly and the Congress of Local and Regional Authorities. The cooperation with the European Court of Human Rights, which will be discussed in more detail in the following chapter, has become more important through the drafting of Protocol No. 14 to the European Convention and the report of the Group of Wise Persons.

Close interaction is warranted between the Committee of Ministers and the Commissioner. The Commissioner addressed the foreign ministers of member states at the 116<sup>th</sup> session of the Committee of Ministers in May 2006. The Commissioner endeavours to keep the Committee of Ministers well informed of his activities and recommendations so that they can be taken into consideration when decisions are made on programming activities in the organisation. He wishes to exchange views with the Committee of Ministers on a more regular basis so that he can profit from the insights of its members who represent collectively the governments of all member states of the Council of Europe. Naturally, the major assessment and thematic reports of the Commissioner will continue to be presented to the Committee of Ministers.

Since one of the principal tasks of the Commissioner is to promote the observance by member states of the organisation's human rights instruments, cooperation with treaty bodies is necessary to ensure the complementarity of roles. It is evident that conflicting recommendations issued by the monitoring bodies and the Commissioner can be avoided through cooperation. The Commissioner's role in promoting all human rights instruments of the Council is also fundamentally different from the specific sectorial competence of the treaty bodies. Nevertheless, the Commissioner seeks to benefit from the accrued specialised expertise of the monitoring bodies. He maintains direct contacts with these bodies supported by a more continuous exchange of information at the level of their Secretariats and his Office.

The Parliamentary Assembly has recently assumed an increasingly active role in debating human rights concerns. The Commissioner welcomes this development as he is of the opinion that human rights should be the subject of regular political debate and follow-up. The Commissioner addressed the Parliamentary Assembly in April 2006 and participated in the urgent plenary debate on irregular migrants in October. The Commissioner wishes to intensify his participation in the plenary debates of the Parliamentary Assembly while contacts with its specialised Committees will also be continued. Meetings with national parliamentarians are an important part of assessment missions as well.

The pivotal role of local authorities in implementing human rights standards has often been overlooked. The Commissioner is in the process of strengthening his contacts with local and regional authorities during country visits and through his participation in the meetings of the Congress of Local and Regional Authorities. The Commissioner addressed the Congress Plenary in May 2006. Awareness of the relevance of human rights at the local level should be improved to enable local and regional decision-makers to pursue rights based policies close to everyday realities.

Furthermore, the Commissioner should relate constructively to other European and international organisations with human rights mandates. Cooperation with the European Union, the OSCE and the United Nations, including in terms of information exchange, will be outlined in the next chapter. The human rights impact of international organisations can be enhanced all over Europe through rational coordination which builds on the strengths of each organisation.

The Commissioner has a special relationship with national human rights structures including ombudspersons and national human rights institutions. Currently, the Commissioner organises separate biennial meetings with European ombudspersons and national human rights institutions, although there is substantial overlap among the participants. The Commissioner aims to improve this multilateral cooperation mechanism while he also relates with national human rights structures on a bilateral basis. One avenue of enhanced cooperation is connected to the reforms at the European Court of Human Rights. National human rights structures can play an important role in addressing the structural problems which are behind many of the complaints to the Court. Their assistance is also essential during the Commissioner's country missions. The Commissioner wishes to reinforce this relationship in the process of developing his capacity for continuous monitoring.

Finally, the Commissioner cooperates with international and national civil society organisations as well as human rights defenders. They often find themselves at the forefront of human rights work. Civil society representatives are normally met first during the Commissioner's assessment missions and their insights and information regarding the human rights situation are highly appreciated by the Commissioner. The Commissioner endeavours to amplify the concerns expressed by representatives of civil society in his work. Following a conference on the protection of human rights defenders, organised by the Commissioner together with the Directorate General for Human Rights in 2006, the Commissioner intends to institutionalise this activity within his Office in cooperation with other international organisations.

### **3. Cooperation for Protecting Human Rights in Europe**

#### **3.1 Council of Europe**

##### *General developments*

Heads of State and Government reaffirmed the pre-eminent role of the Council of Europe in protecting and promoting human rights in Europe at the Warsaw Summit in May 2005. The Summit concluded by adopting a political declaration and an Action Plan laying down the principal tasks for the Organisation in the coming years.

Determined to ensure the complementarity of the Council of Europe and other organisations involved in building a democratic Europe, Warsaw Summit leaders requested Mr. Jean Claude Juncker, in his private capacity, to prepare a report on relations between the Council of Europe and the European Union. The report was issued on 11 April 2006. The Commissioner fully shares Mr. Juncker's opinion that the Council of Europe has to remain the benchmark for human rights in Europe, with the European Union's Fundamental Rights Agency being strictly complementary to the Council's human rights observation and monitoring instruments. Among his many recommendations, Mr. Juncker considered that the Commissioner for Human Rights should become an institution to which the European Union could refer all human rights problems not covered by the existing monitoring and supervisory machinery.

Summit leaders also recognised that an efficient European Court of Human Rights was an indispensable part of the present and future European landscape. Ratification of Protocol No. 14 to the European Convention on Human Rights was considered essential for the future effectiveness of the Court.

However, it soon became clear to Member States that Protocol No. 14 alone would not be sufficient to solve the problem of the Court's backlog of cases. To this end, the Warsaw Summit leaders established a Group of Wise Persons who would consider the issue of the long-term effectiveness of the ECHR control mechanisms beyond Protocol No. 14.



### *The European Court of Human Rights*

For the Commissioner, Protocol No. 14 is directly relevant in terms of the additional third paragraph to Article 36, which formally provides that the Commissioner has the right to intervene as a third party before the European Court of Human Rights. The Commissioner will accordingly use his experience to enlighten the Court on certain questions, particularly in cases which highlight structural or systemic weaknesses in member states. Acknowledging the Commissioner's proven effectiveness, the Warsaw Summit leaders felt that the Commissioner needed to be provided with the necessary means to fulfil his/her functions, particularly in the light of the entry into force of Protocol No. 14.

The Commissioner is currently preparing his criteria for third party interventions, which will be made public shortly. He believes that it is possible to apply this provision in a manner which is compatible with the explicit prohibition of judicial role contained in his mandate. Yet the Commissioner considers that he should have recourse to third party interventions only when they have the added value of opening new possibilities for addressing patterns of human rights violations.

The Commissioner believes that his field experience will allow him to put individual cases into a wider perspective. Information provided by national human rights structures, namely ombudspersons and national institutions for the promotion and protection of human rights (NHRIs) could offer the Court, via the Commissioner, a comparative view with respect to the issue which has given rise to an individual case.

With the assistance of national human rights structures, the Commissioner believes that he could help the Court to identify cases which might give rise to a pilot judgment, define the domestic measures needed for the execution of its judgment in such pilot cases, and understand the difficulties encountered by the national authorities in taking such measures.

### *Long-term effectiveness of the ECHR control system*

The Group of Wise Persons issued their final report on 15 November 2006. Their proposals, which the Commissioner largely supports, necessarily go beyond the remit of Protocol No. 14 in striving to find solutions to the Court's case-load and working mechanisms.

The Group favoured a general extension of the Commissioner's duties. The Commissioner should have the necessary resources to be able to play a more active role in the Convention control system, acting either alone or in co-operation with European and national non-judicial bodies. In particular, the Commissioner should respond actively to the announcement of Court decisions finding serious violations of human rights. The Commissioner could promote the setting up of bodies with responsibility for resolving human rights violations through mediation at a national level. An active network of regional and national ombudspersons to disseminate appropriate information on human rights was encouraged. Such a network could help to reduce the Court's workload with the active support of the Commissioner.

From the outset of its existence, the Commissioner's Office has established close links with national human rights structures, i.e. ombudspersons and NHRIs in member states. The Commissioner's country visits systematically include meetings with NHRIs and with national, regional or local ombudspersons, as well as with thematic ombudspersons, where appropriate. Since 2003, the Commissioner has organized biennial Round Tables with both ombudsmen and NHRIs from member states.

Following the interim report of the Group of Wise Persons and the Commissioner's reply, the European Chapter of the International Ombudsman Institute (IOI) and the Commissioner's Office launched a consultation with ombudspersons in order to examine how the Group of Wise Persons' proposals could be implemented together. The outcome of this consultation was discussed in Berlin on 11 January 2007. The consultation will be further pursued on the basis of a working paper which has been prepared by the Commissioner's Office.

A similar consultation with National Human Rights Institutions (NHRIs) was launched by the Commissioner's Office in Athens on 27-28 September 2006 and is still under way. This process will be finalised at the Athens Round Table on 12-13 April 2007, and will mark the beginning of a new phase of cooperation between the Commissioner, Ombudsmen and NHRIs.

In addition, the Commissioner closely follows the work carried out by the Committee of Experts for the improvement of procedures for the protection of human rights (DH-PR) working under the aegis of the Steering Committee for Human Rights (CDDH). Two working groups are currently working with respect to the new mandate, namely GT-DH-PR A on the execution of judgments of the European Court of Human Rights, and GT-DH-PR B on the review of implementation of the five recommendations mentioned in the May 2004 Declaration.

#### *The Parliamentary Assembly*

The Parliamentary Assembly and the Secretary General have raised the issue of secret CIA detention centres and rendition flights. In November 2005 the Parliamentary Assembly began looking into allegations that secret detention centres had existed in some Council of Europe member states. Senator Dick Marty was appointed to conduct the inquiry and issued a preliminary report on 24 January 2006 and a final report on 7 June 2006. In that report, he exposed a "spider's web" of illegal US detention and transfers, and alleged collusion in the system by 14 Council of Europe member states. The Secretary General in his reports of 28 February 2006 and 14 June 2006 highlighted key areas which required action by member states. On 27 June 2006, in a resolution and recommendation approved by a large majority, the Council of Europe's Parliamentary Assembly called for clear regulations to govern the activities of foreign intelligence services operating in Europe, and demanded "human rights clauses" in military base agreements with the US. The Commissioner has used his channels to support these urgent requests.

### **3.2 European Union**

#### *General developments*

The Commissioner supports the mainstreaming of human rights into European Union policies and choices. The establishment of the post of Personal Representative of the SG/HR on human rights in the area of foreign and security policy has provided a concrete input into these efforts. Moreover, by adopting specific EU Guidelines on Human Rights, the European Union has identified priority areas for its human rights policy work in relation to third countries in particular. Guidelines cover the death penalty (adopted 1998); Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 2001); Human Rights Dialogues (adopted 2001); Children and Armed Conflict (adopted 2003); and Human Rights Defenders (adopted 2004). The EU carries out human rights dialogues with third countries and makes démarches and declarations, both in bilateral and multi-lateral fora.

The Commissioner met with the Personal Representative on Human Rights on several occasions during 2006. The protection of human rights defenders was one of the mutual concerns. At the invitation of the Finnish Presidency, the Commissioner also gave a presentation in November 2006 before the Political and Security Committee (COPS) on human rights challenges and priorities for the forthcoming years.

Furthermore, under the European Initiative for Democracy and Human Rights (EIDHR), which is run by the European Commission, the EU funds the implementation of human rights programmes, primarily by civil society organisations, but also by international organisations. In 2005 to 2006, programmes were implemented in four priority areas, namely Promoting Justice and the Rule of Law, Fostering a Culture of Human Rights, Promoting the Democratic Process and Advancing Equality, Tolerance and Peace. EU directives and regulations on non-discrimination and asylum, among others, also have direct human rights relevance and they may gradually extend the role of the European Court of Justice in the field of human rights.

In the Commissioner's opinion, accession of the European Union to the European Convention on Human Rights would seem the next logical step in ensuring maximum consistency for human rights protection in Europe. Accession would subject all the EU institutions to external monitoring of compliance with fundamental rights, and was firmly advocated by Mr. Jean Claude Juncker in his report. To this end, Protocol No. 14 introduces an amendment to the Convention with a view to possible accession of the EU.

In May 2006, the Commissioner met with Mr Franco Frattini, Vice-President of the European Commission and Commissioner for Justice, Freedom and Security, and Ms Benita Ferrero-Waldner, European Commissioner for External Relations. The agenda of the meetings included the establishment of the European Fundamental Rights Agency, the EU's asylum and migration policy, the framework decision on procedural rights, and finally, child protection. In addition, the Commissioner has maintained close contacts with the European Ombudsman, Mr Nikiforos Diamandouros, throughout 2006.

#### *Fundamental Rights Agency*

The European Union Fundamental Rights Agency began its work on 1 March 2007. The decision of the European Council in December 2003 to transform the Vienna EU Monitoring Centre on Racism (EUMC) and Xenophobia into a Fundamental Rights Agency ("the Agency") was initially met with some concern within the Council of Europe. Parliamentary Assembly Resolution 1427 (2005) suggested that consideration should be given to postponing the creation of the Agency until the Charter for Fundamental Rights had binding effect and the EU acceded to the European Convention on Human Rights. However, in its reply to the Parliamentary Assembly of 13 October 2005, the Committee of Ministers was of the opinion that the EU proposal for the establishment of the Agency had taken several of the Council of Europe's recommendations into account. For example, the proposal foresaw close institutional relations with the Council of Europe and agreed that the Agency's mandate should focus on human rights issues within the framework of the European Union.

In the Commissioner's view, the final Council Regulation establishing the Agency contains detailed provisions designed to foster synergies between the two institutions. For example, the Regulation provides that the Agency should collaborate closely with the Council of Europe, in particular by elaborating mechanisms to ensure complementarity and added value, such as the conclusion of a bilateral cooperation agreement; an independent person appointed by the Council of Europe will have voting rights in the management structures of the Agency; the Agency will refer to the findings and activities of the Council of Europe's monitoring and control mechanisms as well as to the Commissioner for Human Rights.

It is difficult at this stage for the Commissioner to assess the full impact that the Agency will make on the existing European human rights landscape. The Agency will collect and analyse information on the situation of fundamental rights while it may also formulate opinions on the compatibility of community law with fundamental rights. The work of the Agency will continue to cover the existing mandate of the European Monitoring Centre on Racism and Xenophobia, however further thematic areas of activity will be laid down in the Multi-annual Framework, which has yet to be adopted. Concerning Third pillar activities, the approach will now be voluntary, since

no legal basis was found for a Third pillar extension to the Agency's work. Union institutions and the member states could, as appropriate and on a voluntary basis, avail themselves of the expertise of the Agency within these areas. The European Council will reconsider the possibilities to pursue its activities in these areas before 31 December 2009.

The primary task of the Agency will be to provide advice to the institutions of the European Union in the field of human rights, a task which is not within the Council of Europe's remit. If the Agency systematically refers to findings of Council of Europe bodies within its work, this may strengthen and not weaken the Council of Europe's authority. The Commissioner hopes that the close practical cooperation previously established between the EUMC and his Office can be maintained with the Fundamental Rights Agency. The Commissioner visited the EUMC and met with its Director in June 2006.

### *European Parliament*

The European Parliament is playing an increasingly visible role in the European Union's human rights activities, both in EU member states themselves and other countries. The Parliament does this in a number of different ways including, *inter alia*, through its resolutions, reports, and missions to third countries. It has recently adopted a number of resolutions on country-specific and thematic issues, including important resolutions on Homophobia in Europe, and the Situation of the Roma in the European Union and the situation of Roma Women in the European Union. The work of the European Parliament on human rights issues is facilitated by the Sub-Committee on Human Rights within the Foreign Affairs Committee, the Committee on Development and the Committee on Civil Liberties, Justice and Home Affairs, which addresses respect for fundamental rights within European Union countries.

The European Parliament has been particularly active in relation to the issue of extraordinary renditions and secret detentions. In January 2006, it established the European Parliament Temporary Committee on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners. In the course of its work the Temporary Committee held over 100 hearings and visited the Former Yugoslav Republic of Macedonia, Germany, the United Kingdom, Romania, Poland and Portugal as part of its investigations. The resolution based on the Temporary Committee's findings, adopted on 14 February 2007, condemns extraordinary rendition as an illegal instrument, as well as the acceptance and concealing of the practice, on several occasions, by the secret services and governmental authorities of certain European countries.

In April 2006, the Commissioner met with the Chairpersons of the Committee on Civil Liberties, Justice and Home Affairs, the Sub-Committee on Human Rights and the Temporary Committee. He also appeared before the Sub-Committee on Human Rights in July presenting his views on key human rights problems.

### **3.3 Organization for Security and Co-operation in Europe**

OSCE addresses human rights issues in the framework of its human dimension activities. In June 2006, the Commissioner met with the Chairman of the Permanent Council of OSCE and in October he addressed the OSCE Human Dimension Implementation Meeting in Warsaw. The Commissioner also kept close contacts with the Director of OSCE Office for Human Rights and Democratic Institutions (OSCE/ODIHR).

In terms of substantive human rights developments, the Commissioner welcomes the emphasis on developing OSCE mechanisms and activities in the area of tolerance and non-discrimination. In 2004, the Tolerance and Non-Discrimination Programme was established at the OSCE/ODIHR. The programme seeks to promote intercultural understanding and a respect for

diversity. It also supports participating States in their efforts to combat hate crimes. In the fulfillment of these aims, the Tolerance and Non-Discrimination Programme serves as a collection point for information, statistics and legislation from OSCE participating States on hate crimes. In addition, it monitors incidents of racism, xenophobia, anti-Semitism and other forms of intolerance, including against Muslims, Christians and members of other religions.

In terms of future activities and opportunities for cooperation, the Commissioner notes that the ODIHR is in the process of establishing a focal point for dealing with Human Rights Defenders and a contact point for National Human Rights Institutions, both of which were recommendations stemming from the OSCE Supplementary Human Dimension Meeting on Human Rights Defenders in March 2006.

The OSCE High Commissioner on National Minorities and the Representative on Freedom of the Media are further key players in the human rights field. The role of the High Commissioner is one of conflict prevention in that he is tasked to identify and seek through a process of quiet diplomacy the early resolution of ethnic tensions that might endanger peace, stability or friendly relations between OSCE participating States. The Commissioner maintained close contacts with the High Commissioner on National Minorities in 2006.

OSCE field presences also play a significant role in implementing the organisations' human dimension activities. These field presences are located in South Eastern Europe, Eastern Europe, the Caucasus and Central Asia. The largest OSCE field mission is in Kosovo and it is expected that the OSCE will continue to play an important role in relation to both elections and human rights and rule of law capacity building when the European Security Defence Policy (ESDP) Mission supersedes the UN Mission in Kosovo (UNMIK). The Commissioner usually contacts OSCE field missions during his country visits.

### **3.4 United Nations**

#### *Human rights mainstreaming*

In his report, "In larger Freedom", the former Secretary-General Kofi Annan placed human rights in the foreground and emphasized the importance of mainstreaming human rights throughout the UN system stating that, "We will not enjoy security without development, and we will not enjoy either without respect for human rights. Unless all these causes are advanced, none will succeed."<sup>2</sup> This initiative was subsequently endorsed by world leaders at the World Summit of 2005, which made human rights a central theme of the work of the United Nations and reaffirmed the importance of human rights as the "third pillar" of the Organisation along side peace and security and economic and social development. In the context of this initiative, a number of important reforms are being introduced and considered in relation to the charter and treaty based human rights mechanisms, as well as the Office of the High Commissioner for Human Rights.

#### *Human Rights Council*

The Commissioner welcomes the new Human Rights Council and the decision to establish a Universal Periodic Review (UPR) which will assess UN member states' human rights records. He considers that one of the added values of the UPR is that it can be utilised to assess the human rights records of all UN member states, and not just those that have ratified the relevant human rights treaties. The Human Rights Council is required to develop the modalities for the UPR within one year after the holding of its first session and a Working Group has been created to carry out this task.

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<sup>2</sup> Para. 17.

General Assembly Resolution 60/251, which created the Human Rights Council, provides that the system of peer review should be based on objective and reliable information on the fulfilment by each State of its human rights obligations and commitments. In this regard, the Commissioner notes with interest the suggestion made by some stakeholders that in addition to the human rights assessments produced by United Nations bodies, the UPR process should also take into account the human rights assessments and analyses produced by inter-governmental human rights organisations, including the Council of Europe. Synergies should indeed be fostered to ensure an efficient review process. The Commissioner is of the opinion that civil society organisations should also be able to contribute information under the UPR.

The Commissioner considers that the special procedures play a vital role in the protection and promotion of human rights, including in the Council of Europe region. The special procedure mandate-holders, who act as independent experts, are mandated to investigate and report on thematic and country-specific human rights violations throughout the world. In this regard the Commissioner notes that General Assembly resolution 60/251 tasked the Human Rights Council to review the special procedures and to rationalise and strengthen their work. A Working Group has been created for this purpose and the review is to be completed within one year of the first session of the Human Rights Council.

The Commissioner is of the strong opinion that the strength of the special procedures lies in their independence and expresses his hope that the process of review will function to strengthen as opposed to weaken the current system, which was aptly described by the former Secretary-General as the crown jewel in the United Nations human rights machinery. In this regard, the Commissioner is pleased to note the good cooperation of Council of Europe member states with special procedure mandate-holders. During the course of 2006, a number of mandate holders carried out fact finding missions to Council of Europe member states including Azerbaijan, Germany, Hungary, Italy, the Netherlands and the Russian Federation.

#### *Office of the High Commissioner for Human Rights*

As part of the Secretary-General's initiative to place human rights at the centre of UN activities, the OHCHR submitted a Plan of Action to the General Assembly in May 2005. The Plan of Action sets out the OHCHR's strategy for responding to the numerous and complex human rights challenges faced throughout the world. The Plan of Action was endorsed by the 2005 World Summit, which called for the doubling of the OHCHR's regular budget over five years. The OHCHR has subsequently submitted a Strategic Management Plan, which according to the High Commissioner, Louise Arbour, is intended to detail the means by which the OHCHR intends to work with UN member states to operationalise the vision set out in the Plan of Action.

The OHCHR intends to focus its attention on closing the human rights implementation gap by pursuing two overarching goals, the first being to protect individuals from human rights violations and the second being to empower individuals to assert and claim their own rights. As part of this strategy the OHCHR has set out a number of action points. These include, *inter alia*, establishing standing capacities for rapid deployment and investigations, ensuring more synergy between the work of the OHCHR and the various UN human rights bodies, establishing closer partnerships with civil society and enhancing the leadership role of the High Commissioner by increasing her interaction with other UN bodies and reinforcing the presence of the OHCHR in New York.

The OHCHR also intends to expand its country engagement by increasing its country desks and deploying more human rights staff to the field. In Europe, the OHCHR currently has country offices in Bosnia and Herzegovina and Serbia (including Kosovo), as well as Human Rights Advisers in the Russian Federation and the Southern Caucasus.

### *Commissioner's contacts with UN institutions*

The Commissioner has maintained close contacts with High Commissioner Louise Arbour and they have exchanged information regarding country visits to Council of Europe member states. Information is also regularly exchanged between the Council of Europe Office of the High Commissioner for Refugees and the Commissioner's Office. In connection with his visit to Bosnia and Herzegovina in December 2006, the Commissioner also was in contact with the Under-Secretary-General for Peace Keeping Operations.

In 2006, the Commissioner met with several special procedures mandate holders including the Special Representative of the Secretary General on the situation of human rights defenders, the Representative of the Secretary General on the human rights of internally displaced persons, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on the promotion and protection of human rights while countering terrorism, the Special Rapporteur on violence against women and the Special Rapporteur on the freedom of religion and belief.

### **3.5 Civil Society and Human Rights Defenders**

International non-governmental organisations (INGOs) have a pivotal role in keeping human rights on the European political agenda and have again demonstrated this with regard to, for example, human rights implications of counter-terrorism measures. They are also an essential source of information and contacts for the Commissioner on the human rights situation in Europe.

The Commissioner and his Office maintain a continuous working relationship with INGOs working in the human rights field. In addition to regular contacts with INGOs with broad human rights mandates such as Amnesty International, Human Rights Watch and International Federation for Human Rights, the Commissioner also cooperates with INGOs working in more specific fields. Furthermore, the Conference of INGOs of the Council of Europe includes a specific Human Rights Grouping.

During country visits, the Commissioner makes the point of meeting with NGOs right at the beginning of the mission in order to discuss the human rights situation in the country undergoing the assessment process. The Commissioner may also raise with the national authorities concerns regarding obstacles faced by NGOs in their work. A vibrant civil society is a cornerstone for a society based on human rights. In several countries, the Commissioner has paid attention to the freedom of association and expression, addressed the functioning of NGOs and their access to funding and called for access to information and sites necessary for the work of NGOs. Moreover, he has asked for consultation of NGOs regarding relevant legislation and human rights' policy.

The protection of human rights defenders and their work, as well as the development of an enabling environment for their activities are part of the terms of reference given to the Commissioner for Human Rights. Human rights defenders are amongst the main actors contributing to the effective observance and full enjoyment of human rights in the Council of Europe member states. Therefore, any action by the Commissioner aiming at their protection can be justified as a contribution to an effective national system of protection of human rights.

On 13-14 November 2006, the Commissioner organised a Colloquy on Human Rights Defenders in Strasbourg jointly with the Directorate General of Human Rights. The Colloquy brought together over a hundred participants and examined the challenges faced by human rights defenders in 46 Council of Europe member states while seeking to identify measures to support and protect them. The participants agreed that the Commissioner should play a key role in supporting human rights defenders in Europe. The Commissioner expressed his willingness to

enhance his activities in this field in close co-operation with other intergovernmental organisations, in particular the OSCE/ODIHR Focal Point for Human Rights Defenders, the European Union and the UN Secretary General's Special Representative on Human Rights Defenders.

## **4. Priority Issues during 2006**

The Commissioner visited several member States of the Council of Europe in order to understand the broader human rights situation and to discuss with governments their efforts to implement the European standards. Reports from such visits, when finalised, are published on the Commissioner's web site. He did, however, also define certain thematic issues which appeared to be problematic in several countries or which required further attention in order for the agreed standards to be better implemented Europe-wide.

These themes were raised during the assessment missions and other country visits. They were also raised at conferences and other meetings as well in the Commissioner's Viewpoints. His aim was to present an interpretation of what the agreed European human rights standard would require in order to be made reality.

The topics the Commissioner gave priority were: the rights of women; the rights of the child; protection of human rights in the combat against terrorism; measures against xenophobia; the rights of migrants; Roma rights; the rights of people with disabilities; LGBT rights; and prison conditions.

### **4.1 Rights of Women**

The Commissioner spoke at the launch of the Council of Europe campaign on violence against women in Madrid on 27 November. He repeatedly discussed women's rights during missions, including the issue of women's participation in political decision making as well as that of equal pay. He contributed to the campaign against trafficking of human beings and raised that concern during missions.

He made, *inter alia*, the following points:

"In spite of all the positive rhetoric about gender equity, many women are still deprived of their human rights. Not only are women under-represented in political assemblies and discriminated against on the labour market, they are also subjected to threats against their physical safety. The Council of Europe campaign focuses on women's safety and integrity.

Although it is depressing that such a campaign is needed, it is important that the issue of violence against women has been put high on the political agenda. A concrete strategy was outlined by the Committee of Ministers in a Recommendation adopted in 2002. The Parliamentary Assembly and the Congress of Local and Regional Authorities within the Council of Europe are also committed to this campaign.

The campaign calls for no less than a major change of attitudes. Although precise data is lacking, it is clear that domestic violence is alarmingly widespread, and European societies are no exceptions.



Attitudes and behaviour do not change easily. It took a long time before it was established by law that non-consensual sex within marriage was rape. The previous assumption had been that if a woman is married she had to accept sex when her spouse so demanded. In other words, her body was not her own.

A similar attitude was behind the notion of 'honour crimes'. These types of crimes against women were sometimes seen by authorities as less serious when the honour of the family was at stake. The victims were typically wives, daughters or sisters who wanted to decide for themselves how and with whom to relate.

The practice of female genital mutilation is another extreme form of violence against girls and women, the real purpose of which is to control and repress their sexual life. This inhuman tradition continues to be practiced in some African countries and it still happens that young girls living in Europe are mutilated while on 'holiday' in their country of origin.

It is true that some of these most abhorrent violations are beginning to disappear, but the obvious principle that women have the right to decide over their own bodies is still not accepted by everyone. The slow reaction against wife beating is one symptom.

Domestic violence against women should be classified as a human rights violation. There are two reasons for this. The first is the fact that a large number of women are seriously ill-treated, sometimes in a manner which would be seen as cruel, inhuman and degrading - or even as torture - if carried out by state agents.

The second reason is the recognition that not only individuals but also the authorities do have a responsibility. They should take determined action to prevent such ill-treatment, to investigate every credible report about violations and to prosecute the perpetrators.

That governments could be held responsible for violations between private individuals results from the European Convention on Human Rights, and has been confirmed by the European Court of Human Rights. For instance, the Court considered in the case of *M.C v. Bulgaria* (2003) that 'States have a positive obligation inherent in Articles 3 and 8 of the Convention to enact criminal-law provisions effectively punishing rape and to apply them in practice through effective investigation and prosecution.'

Authorities should provide remedies and redress to victims and secure protection for those at continuous risk. The law should allow for restraining orders against perpetrators.

Policies must also take into account the fact that violence often breeds fear. Battered women may simply not dare to report their situation and those who do so may live in constant terror, fearing that their partner or previous partner will retaliate.

Police work and judicial procedures must be sensitive to these risks. Social workers and health personnel should also have clear instructions on how to act when they see signs of ill-treatment. Shelters should be opened where needed and be equipped to provide psycho-social support.

Domestic violence is also in many cases a tragedy for the perpetrator. Alcohol, poverty, personal frustrations and family or health problems may sometimes trigger the abuses. This underlines the importance of social support and treatment programmes for those persons as well.

Social services are needed but they cannot eliminate the need to establish an ethical consensus that such violence is absolutely unacceptable.

Leading politicians should listen to the women's movement and help educating the public about the importance of zero tolerance on violence against women. This is not only a 'women's issue' but a concern for the whole society as a whole, including the children."

## **4.2 *Rights of the Child***

The Commissioner spoke at the opening of the Council of Europe campaign on violence against children in Monte Carlo on 5 April and took part in the UNICEF European meeting on the rights of the child in Palencia on 19-20 June. An Issue paper was published on corporal punishment. A special meeting was organised in Athens about ombudswork for children in September. During missions, the Commissioner visited juvenile justice institutions. He spoke about the rights of young law offenders at the Council of Europe meeting in Moscow for general prosecutors in July.

The Commissioner has made the following observations:

"Violence against children must be stopped. It just is not acceptable that children are beaten and battered by adults, very often by those whom they trust most. Neither can we tolerate that children are exploited in pornography or subjected to physical sexual abuse.

The international and European norms are very clear. The Convention on the Rights of the Child - - ratified by all members of the Council of Europe -- says that states 'should take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child...'

The sad fact is that this important provision is still not fully implemented. That makes the campaign 'Building a Europe for and with children' a necessity. It is essential to raise awareness about the negative effects of corporal punishment and to encourage the development of positive, non-violent child-rearing and educational practices.

We should not hide behind the right to privacy to justify corporal punishments. Concerns for the child welfare cannot stop at the front door of the child's home or school. All children have the right to be educated in an environment free of violence.

The end of corporal punishment further requires a legal abolition. In Europe, several countries have explicitly banned such practices in law, in other, supreme courts has ruled that it should be prohibited. This legal ban pursues a two-fold objective: on the one hand preventing, or at least dissuading, abusers and on the other offering ways and means to seek redress in cases of violations.

The legal abolition would constitute a significant improvement as it would bring about a much needed change in attitudes with respect to use of violence against children. If attitudes change to the better it will then be easier to identify risk situations and foresee early, effective and humane, interventions to prevent the beating of children as well as other unacceptable forms of violence against them, such as sexual abuse.

The law is important but not enough. We know that even in countries with a clear law there have been cases of battering and abuse of children. There is a need of monitoring and rapid reaction on cases of violation. There is a need for concerted education and information, including for training of professionals who are particularly important for the protection children, for instance teachers, social workers, health personnel and the police.

Still, even when such measures are taken breaches might happen and children – and their representatives – need remedies to protect their rights. They need to know where to go for confidential advice and advocacy, how to make complaints and pursue them, including to court when necessary.

And when states are failing to address such breaches on the national and local level, children should have a possibility to use regional human rights mechanisms. This is also relevant in regard to the Council of Europe. We should secure that its mechanisms, including the Court and the Social Charter Collective Complaints procedure, are truly accessible to children. They should be child friendly, child sensitive.

The campaign 'Building a Europe for and with children' is of paramount importance. If we want a world where others are respected, where there is tolerance and where conflicts are resolved by peaceful means, we should take strong action. That is what the present generation of children is expecting for from us. We should not disappoint them".

### **4.3 Human Rights and Terrorism**

The Commissioner took part on 8 December in the EU annual NGO forum on Human Rights in Helsinki and spoke about the need to protect human rights in the fight against terrorism. He underlined the importance of supporting the victims of terror acts at a Council of Europe meeting with Ministers of Justice in Yerevan in October. He supported the Dick Marty report on rendition flights.

Positions of the Commissioner:

"It is important that the Council of Europe is investigating activities in Europe of the US security service. Illegal arrests, enforced transport of wrongfully detained people, secret places of detention and brutal interrogation methods are all violations of human rights. European countries should not accept these methods and, even less, facilitate such activities.

Terrorism is an evil which strikes at our democratic values, not least the right to life and other human rights. It should be condemned and fought, but we should not – repeat: not - use the same methods as the terrorists themselves. The struggle against terrorism must be conducted with legal means and with full respect for human rights standards.

That has not been the case after 11 September 2001. The US security service has been given extraordinary powers. Aliens are kidnapped and taken to Guantánamo or to secret prisons in other countries, or handed over to security services which practice torture and with which the CIA collaborates closely - as in the case of the two Egyptians who were deported from Sweden.

Detainees are not given any possibility to challenge their detention or even communicate with a lawyer. They have been placed outside any jurisdiction, in a sort of legal 'black hole'. Some of them have been taken to secret places of detention. The US government does not even recognize the obligation to account for the names of those brought away.

The interrogation methods used on the detainees violate international rules. The pictures that we have seen from the Abu Ghraib prison in Iraq only represent a fragment of the truth. It has now been proved beyond all doubt that torture is used in American interrogation centres in Afghanistan, Iraq, the prison camp in Guantánamo and other places.

The 'war on terror' has not even been effective, which is hardly surprising, since previous experience shows that torture is not an effective way of collecting reliable information. In fact the use of such methods has further encouraged terrorism.

But the main issue here is that these violations have undermined the core legal principles that the international community has established in the years since World War Two. The more disappointing it is that there has not been a stronger opposition to this undermining of agreed standards.

National security services in several European countries have collaborated closely with the American CIA, particularly after 11 September. Exchange of information between the security agencies of democracies is indeed essential for the protection against extremists and perpetrators of violence. It should also be accepted that such collaboration to some degree must be confidential. However, this secrecy should not be allowed to cover up human rights violations."

#### **4.4 Measures against Xenophobia**

During the missions to Germany in October and Ukraine in December the Commissioner raised the problem of xenophobic tendencies and the responsibility to protect groups which tend to be targeted by extremist groups. He spoke about this subject at the annual European meeting of the World Jewish Congress in November.

"Xenophobia is a serious problem in all parts of Europe today. Extreme right wing parties promoting hatred against migrants and minorities are represented in several national parliaments. In some countries, they also influence government policies. Unfortunately, some other political parties have redefined themselves in order not to be outflanked by the extremists – with the effect that xenophobic positions have become rather 'mainstream'. The result is continued discrimination, inter-communal tensions and segregation.

While patterns of xenophobia and intolerance continue there are also reports about more violent hate crimes against migrants and minorities. The Office for Democratic Institutions and Human Rights (ODIHR) recently presented an overview of hate-motivated violent incidents in OSCE countries during the first half of 2006. They included crimes related to racism, anti-Semitism, anti-Ziganism, Islamophobia and homophobia.

Black Africans had been stabbed or beaten to death; Roma groups targeted in mob violence; Jews physically attacked; synagogues, and cemeteries vandalized. Muslims have been assaulted, and their mosques and Islamic schools damaged. Gay demonstrators and persons with disabilities had also been targets of hate crimes and violent attacks.

The precise scope of hate criminality in Europe today is difficult to assess as most governments still have not introduced an efficient system of collecting and organizing data in this field. Also, we can assume that a great number of offences are never reported to the police. However, available data suggest that hate crimes continue to be alarmingly widespread – and this must be addressed.

Physical attacks on individuals from minority groups are often perpetrated in communities where extremists have spread hate propaganda. I have personally seen examples of how minor incidents in such atmospheres can ignite mob tendencies against, for instance, Roma communities.

These are situations in which politicians and other opinion leaders must stand up and defend democratic values and human rights for everyone. We have seen too little of such principled, courageous positions in recent times. This is a great shame. Governments in Europe have not done enough.

However, it should also be recognized that there have been attempts in several countries to curtail intolerance and hate crimes through legislation, police work and awareness programs. Together the majority of governments have also given xenophobia a considerable priority in pan-European organizations. The Council of Europe campaign 'All different – all equal' is an important example.

The Council's Commission against racism and intolerance (ECRI) is effectively monitoring the situation on a country-by-country and continuous basis. The Commission also adopts general policy recommendations, disseminates examples of 'good practice' and collects data on legal measures in member states to combat racism and intolerance.

A summary of the generic recommendations from the Council of Europe, ODIHR and the EUMC indicate that further action is needed:

- There is a 'data deficit' on both patterns of discrimination and hate crimes. A better system of data collection is needed in many countries, which should include methods to analyze the frequency and type of abuse.
- There is a need to strengthen the legislation as such. Racist motives should be seen as an aggravating factor in prosecuting hate crimes.
- The prevention of hate crimes and acting upon them must be made a priority in police work on both the local and national level. Any tendency of racism in the police corps must be stopped.
- Media have a responsibility in this field. While respecting the freedom of the press, journalists and editors should be encouraged to abstain from negative stereotyping and do more to promote rights-based values.
- Inter-religious dialogue should be further promoted in order to counter ignorance and promote ethical values which are common between major faiths. Hopefully, such a dialogue will also encourage moderate religious leaders to tackle the problem of fanatic extremism within their own folds.
- Non-governmental organizations can make a real difference. A vibrant civil society could provide a "vaccination" against xenophobia. Such voluntary groups, which offer youngsters an alternative to extremism, should be supported.
- Schools must be equipped to handle xenophobic tendencies among pupils and to provide effective knowledge to promote tolerance and respect for those who are different. Efforts to 'invest' in the future should be stronger and more efficient."

#### **4.5 *Rights of Migrants***

During the mission to Germany in October the Commissioner evaluated the treatment of asylum seekers and migrants. He participated in the Council of Europe annual Social Forum in November which highlighted the situation of migrants in Europe. He convened an expert seminar on the rights of migrants and spoke on the issue to the Parliamentary Assembly.

“Xenophobia appears to be on the increase in Europe and immigrants suffer discrimination. At the same time, young migrants are drowning in waters close to Europe. New policies are needed – they should be based on human rights.

It must be made clear that all migrants do have human rights, even when they are not citizens of the country. Human rights norms in the UN treaties, the European Convention and the Social Charter also apply to non-citizens.

The general rule is that the rights should be guaranteed without discrimination between citizens and aliens. Equal treatment is the principle. This is demonstrated by the use of the word ‘everyone’ as subject in many of the articles in the key treaties. The exceptions relate to the right of political participation and freedom of movement.

Non-citizens shall, therefore, not be subjected to arbitrary and unlawful interference with their privacy, family, home or correspondence. They shall be equal before the courts; protected against torture and ill-treatment; and have the freedom of religion as well as the right to hold opinions and express them. The right to family reunion is particularly relevant in many cases. Also, they have social rights and should be treated equally with nationals as to work conditions and pay.

Apart from the broader human rights treaties, there are also international conventions specifically addressing the situation of migrant workers. ILO convention No. 97 deals with remuneration, taxation and access to trade unions. The International Convention on the Protection of the All Migrant Workers and Members of Their Families (CMW) is basically a UN compilation of rights already agreed as part of other human rights treaties – including for migrants whose stay in the country is not regularized.

The derogatory term ‘illegal migrant’ should not be used – it puts a criminal stamp on the individual. To be at odds with immigration procedures does not mean that one is a criminal.

Also migrants in an irregular situation have rights, for instance those spelled out in the ILO Convention mentioned above. They should not be denied access to social rights, such as basic health care and education.

Furthermore, they should of course have the right to apply for permit to stay. They should have protection against arbitrary detention; not be sent to countries where they risk ill-treatment and torture; and not be expelled without having a legal opportunity to challenge such a decision.

These rights are not always respected. In fact, there is a wide gap between reality and the agreed human rights norms for migrants, also in Europe. One problem is detention. The UN Special Rapporteur on human rights for migrants has reported on arbitrary detention decisions, prolonged detention periods, detention even of children and trafficking victims, overcrowding and unhealthy conditions, and limited possibilities to complain about abuse.

As newcomers the migrants are vulnerable and for obvious reasons are often less able to know and claim their rights. They risk facing discrimination on the labour and housing market. Their children might be discriminated at school. Racism and xenophobia appear to have increased in recent years and migrants have been targeted.

Migrants without a permit to stay and to work are of course even more vulnerable. They may be humiliated and ill-treated and not dare to complain. They may be exploited by ruthless employers or traffickers. Women in this situation certainly face particular risks.

Strict border control has been tried but has not produced the desired result. Rather, it has created a market for organized smuggling and trafficking. Irregular migration continues under forms which increase the loss of life. There is no military solution to this problem.

- Preventive action is of course necessary and urgent. The reason why so many so desperately want to come to Europe – even to the extent of risking their own lives – must be addressed. No doubt this will require more support to countries from where young people have little choice but to run away. The EU additional assistance to Mauritania was a positive example.

- Within Europe there is a need for further responsibility sharing, every country should contribute in a spirit of solidarity. This would also allow for consideration of the positive aspects of immigration – relevant in an aging continent. After all, it is a good thing that people can move to other countries for longer or shorter periods – though it should happen under conditions which do not risk lives.

- Human rights should be respected in all aspects of immigration policy. The reception procedures are key and need more resources, better educated border police and clear, human rights based policies in order to function effectively and humanely. Migrants must be treated as human beings; many of them are in very severe circumstances, and do deserve our respect.”

#### **4.6 Roma Rights**

The previous Commissioner Alvaro Gil-Robles published a report on the human rights situation of Roma, Sinti and Travellers in February 2006. Commissioner Hammarberg visited Roma settlements in Greece and Ukraine during missions. In November, he went to Slovenia after an enlarged family of some 30 persons had been forced to move from their home due to aggressive demonstrations by people from the neighbourhood. He raised the issue of rights of Roma during the mission to Germany and he addressed the annual meeting of the European Roma and Travellers Forum in November. He visited the office of the European Roma Rights Centre in Budapest in May.

“Evictions of Roma families have been reported to me from a number of European countries. In most cases the decisions were taken by local authorities. The tenants were not given adequate notice or offered a real alternative. It is clear that several of these evictions violated European and international standards on housing rights, including the right to security of tenure. Local autonomy does not mean autonomy from human rights protection.

Poor housing conditions and evictions are in fact a major cause of Roma exclusion in our societies. Roma and Travellers are disproportionately represented among the homeless and those living in sub-standard housing. Roma ghettos and shanty towns can still be found on our continent today.

The social and spatial exclusion of Roma today is intimately linked to Europe’s shameful history of discrimination and persecution of the Roma, including the porrajmos.

Before his departure my predecessor, Alvaro Gil-Robles, published a report on the human rights situation of the Roma, Sinti and Travellers in Europe.

It documented the persistent and multiple discrimination experienced by all too many Roma women, men and children in housing, education, health-care and employment. The disproportionate number of Roma children in special schools, forced sterilizations of Romani women, and particularly high unemployment rates among Roma men and women are parts of this pattern of long-term discrimination and prejudice.

The difficulties Roma refugees face in applying for asylum is also underlined in the report. During my mission to Germany, I raised the problem of the 'tolerated' (Duldung) status of failed asylum seekers among whom there are many Roma families from Kosovo. This insecure status which may have lasted over 15 years in certain cases weighs heavily on children who have led their entire lives in Germany, go to school and have friends there.

Anti-Gypsism which is often manifested by extreme forms of hate speech and violence show the persistent nature of prejudice against Roma. This is an institutionalized form of racism which has to be continuously combated by constant vigilance.

There is no place for racism and xenophobia in a democratic society. International and European human rights standards clearly provide for equality before the law and prohibit discrimination on the grounds of ethnicity.

Governments, therefore, have a positive duty to bring about equality of opportunity for all. Improved access to housing, education, employment and health care is key for many Roma. I intend to review the implementation of the recommendations made in the first Commissioner's report on Roma, Sinti and Travellers.

All too often Roma themselves have been excluded from the discussion on how their situation might be improved – instead gaje 'experts' have been dominating. This is not a human rights approach. Roma must be seen as partners in implementing the agenda for securing their own rights.

Active partnerships of authorities and Roma are essential for the preparation and realization of national action plans. Civil society organizations which represent the Roma in a broad way are essential for this process. Such organizations are necessary at local, national and international level. Those existing should be respected by the authorities."

#### **4.7 *Rights of Persons with Disabilities***

An expert was recruited to the Commissioner's Office to prepare guidelines on monitoring of the rights of persons with disabilities. The Commissioner supported the drafting and adoption of a UN Convention in this area. He took part in the Council of Europe conference on the rights of disabled people in St. Petersburg and visited institutions for both adults and children with disabilities. During missions to Germany and Ukraine he visited hospitals for patients with psychiatric problems.

"People with disabilities are still discriminated all over Europe and the world as a whole. That is why the standards have to be made more concrete and that is why the Council of Europe Action Plan is so important.

- It still happens that persons with disabilities are denied meaningful education and opportunity to support themselves. It still happens that they are prevented from making choices about their health, well-being and how and where they want to live.



- It still happens that children with disabilities are denied their family and educational rights because ordinary schools are not prepared to meet their needs. So-called special schools are sometimes of lower quality and do not give the skills necessary for the open labour market.
- Job opportunities are still limited due to discriminatory practices and physical barriers at the workplace, at public transport or at home. City planning has still not included the interests of persons in wheel-chair or with intellectual disabilities.
- The treatment of mentally disabled persons is sadly scandalous in some countries. People are even this very day kept in institutions no better than bad prisons.
- People with disabilities are in some cases also denied the right to vote and others may not be given a genuine chance to cast a ballot because election procedures have not been accessible to them all.

This does not mean that there has been no progress in recent years. Attitudes have begun to change. The mere facts that UN has adopted a new Convention and that Council of Europe has adopted an Action Plan are symptoms of a growing realization of the need to stop discrimination and exclusion.

Protocol 12 to the European Convention contains a general prohibition of discrimination. This Protocol is of particular importance to persons with disabilities. Cases of violations in countries which have ratified can be brought to the European Court of Human Rights.

One good way of jumpstarting the implementation of the Action Plan and the UN Convention would therefore be to ratify the Revised Social Charter and Protocol No 12 – all member states have not yet done so.

A good law is the backbone of all human rights enforcement. However, even the best legislation may not be sufficient. When I met with nongovernmental organizations in St Petersburg one of their messages was that the laws here are good – in fact, excellent – but they have only partly changed reality. Much more remains to be done. That is, in my assessment, the case all over Europe.

One problem is that attitudes tend to change slowly. In societies where people with disabilities long were hidden away in large institutions others have been unsure of how to react to disabilities. In some societies there is still a stigma on persons with disabilities. There the awareness campaigns are particularly important. Hopefully, a policy of inclusive schooling can also eradicate such prejudices.

The main message from the non-governmental organisations working in this field is that the environment should adjust to the individual rather than the individual to the environment. We need ramps for the wheel-chairs and other adjustments to make it possible for people to be active members of society. This is what it means to make society inclusive for all.

It is now recognized by most that the old institutions must be closed. Many have indeed been closed. Ideally, everyone should be able to live in a family or family-like environment and go to an ordinary school or workplace. When that is not possible, the institutions should be much smaller than before – and human friendly.

The emphasis on early intervention is important. It is also essential to evaluate the new problems created by this radical change of policy. One such problem was mentioned the other day by the civil society groups: that the burden on single mothers has become too heavy. They have to care for their children with impairments and at the same time try to earn a living for herself and the child.

The non-governmental groups raising such points are admirable. Many of them are built by parents to children with disabilities. They work hard and concretely for the schooling of their children and at the same time advocate improved government programs. We would not go wrong if we listen to them with attention. We would go right if we reduced unnecessary bureaucracy which tends to hinder their work.”

#### **4.8 *LGBT Rights***

The Commissioner testified to a meeting in the European Parliament in May on the protection against homophobia. He met representatives of LGBT rights groups during country visits and made clear that discrimination against people because of their sexual orientation constitutes a violation of human rights.

“Demonstrations by homosexuals have been banned in several cities in Europe during recent years. This is not acceptable. Peaceful demonstrations for sexual minority rights must be allowed. The fact that some people harbour homophobic prejudices is no reason to limit the freedom of expression and freedom of assembly of others.

The police have the duty to protect such manifestations and – while in extreme situations it might be necessary to recommend alternative demonstration venues – banning them is certainly unacceptable as it undermines core human rights principles.

In fact, the European Court of Human Rights ruled in 1988 that governments not only need to refrain from interfering, but may on occasion have to take positive measures to ensure an effective freedom of peaceful assembly.

The lesbian and gay movements are getting more and more organized and they urge their members to ‘come out’. This is a logical response to centuries of systematic discrimination in country after country.

The real problem is not their sexual orientation, but the reaction of others. Whatever the psychological roots, many people still react with aggression against homosexuals. Sadly, some priests have also given direct or indirect support to homophobia which has delayed the necessary attitude change in a number of countries.

Hate speech and violent acts against sexual minorities are still frequent – often with total impunity. The time has come to change that. European and international norms are clear, and the non-discrimination provisions in international human rights law do cover this group as well. Their right to freedom of expression and assembly cannot be restricted.

The European Court of Human Rights has ruled against criminalization of homosexuality. It has also taken a clear position against unequal ages of sexual consent, exclusion from the military, deprivation of child custody as well as social benefits for same-sex partners.

However, it is necessary to monitor that national laws conform to the jurisprudence of the Court – and that they are implemented in reality. This will require for judges and prosecutors to be well informed, and for the police to receive the necessary training and instruction.

Another group of professionals who are particularly central in efforts to combat prejudices is the teachers. Rooting out homophobia should be a central goal of human rights education.”

#### **4.9 Prison Conditions**

During missions the Commissioner regularly paid visits to penitentiary institutions, both for pre-trial cases and people sentenced. He raised problems related to poor conditions after several of these visits.

“Conditions in prisons are appalling in several European countries. In some cases the treatment of the inmates is clearly inhuman and degrading. This is not acceptable as prisoners also have human rights. It may not be popular to invest in the improvement of detention centres but governments have a duty to ensure that prison sentences do not destroy the health of those deprived of liberty.

The obvious purpose of a prison sentence is to punish the offender and prevent him from continued criminal activities. Another intention should be to ensure the rehabilitation and reintegration of the prisoner in society after release. Agreed international and European standards are based on these assumptions; they clarify that all persons deprived of their liberty shall be treated with respect for their human rights.

The European Prison Rules adopted by the Council of Europe state that all detention shall be managed so as to facilitate the reintegration of the prisoners into free society. The reality, however, is that too little is done today to rehabilitate and reintegrate. This is probably one reason why the recidivism rate is high; many released prisoners just return to crime in a vicious circle.

A major problem in almost every European country is that the prisons and pre-trial detention centres are overcrowded. In some countries there are more than two times as many inmates as foreseen when the institutions were built. The guideline defined by the European Committee for the Prevention of Torture (CPT) of at least 4 square meters per inmate for cells with several prisoners is often not respected. In some cells prisoners do not even have their own bed and have to sleep in shifts.

Overcrowding also entails a constant lack of privacy – even, for instance, when using the toilet facilities. In these cases the right to private life is undermined. Such conditions increase tensions and result in more violence between prisoners and between prisoners and staff. This, again, undermines efforts for rehabilitation. The CPT has concluded on more than one occasion that the adverse effects of overcrowding have resulted in inhuman and degrading conditions of detention.

It has to be recognized that special security measures sometimes are necessary in order to prevent collusion and continued criminal activities by certain prisoners. The authorities must also be able to take steps to prevent ‘gang rule’ inside the prison walls which could be very destructive and also harm other prisoners. Such restrictions should, however, be proportionate to the legitimate purpose for which they are imposed.

Disciplinary procedures are needed for cases of violence and other types of misbehaviour of inmates. They should reflect principles of justice and fairness and offer a possibility of appeal. Some of the disciplinary cells I have seen during my missions have been inhuman and should not be used. It should also be recognized that solitary confinement in itself could have a damaging impact on the individual, especially if that treatment is extended for longer periods.

The European Prison Rules state that conditions which infringe on the human rights of prisoners cannot be justified because of lack of resources. Some countries are indeed addressing the problem of overcrowding by adopting plans to build new prisons. This is positive and will allow for consideration of a more appropriate combination of security and humane infrastructures, including the granting of space for outdoor activities. However, there is also a need for more efforts to introduce alternatives to imprisonment, especially in less serious cases.

As prisons are by nature closed institutions, inspection procedures are particularly relevant. There should be regular visits to each site of detention by a genuinely independent body with the authority to open all doors and interview every detainee in privacy.

There is therefore a need to establish effective national systems for monitoring. An additional Protocol to the UN Convention against Torture and Cruel, Inhuman and Degrading Treatment stipulates such an inspection mechanism. Among the States which have ratified are 14 members of the Council of Europe. Another 16 European countries have signed and thereby indicated their intention to become parties to the Protocol.

This monitoring role could be given to an Ombudsman or a similar institution operating independently. In Ukraine, special monitoring teams have been set up with strong participation of non-governmental organizations. This has given the inspection system energy and a high level of independence. Inspection systems of this kind should be able to ensure that living conditions in prisons and pre-trial detention centres are compatible with the respect for human dignity.”

## **5. Activities**

### **5.1 Introduction**

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

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

The Commissioner's current activities aimed at fulfilling these objectives can be divided into three major categories: field visits and reports, thematic work, and promotion of national human rights structures.

The present report of activities covers the calendar year 2006. It should be noted that Thomas Hammarberg succeeded Alvaro Gil-Robles as the Commissioner for Human Rights on 1 April 2006.

## **5.2 Field Visits and Reports**

### *Country assessment missions*

The Commissioner seeks to engage member states in a permanent dialogue and conducts official country missions for a comprehensive assessment of the human rights situation. The missions typically include meetings with the highest representatives of government, parliament, the judiciary, as well as leading members of human rights protection institutions and the civil society. The Commissioner also visits institutions and sites with particular human rights relevance such as prisons, police stations, shelters for victims of violence, facilities for accommodating asylum-seekers, psychiatric institutions and schools. The Commissioner's reports of the visits contain both an analysis of the human rights situation and detailed recommendations about possible ways of improvement. The reports are presented to the Council of Europe's Committee of Ministers and the Parliamentary Assembly. Subsequently they are published and widely circulated in the policy-making and NGO community as well as the media.

In 2006, Commissioner Thomas Hammarberg, carried out two missions for the purpose of preparing regular country assessment reports:

9-11 and 15-20 October	Germany
10-17 December	Ukraine

The reports of these visits will be presented and published in 2007.

On 15 February 2006, the report on the human rights situation in France was presented by the first Commissioner Alvaro Gil Robles to the Committee of Ministers and published.

By the end of 2006, there remained 14 member states which had not yet been visited by the Commissioner for the preparation of an assessment report.

### *Follow-up visits*

A few years after the official visit to a country, members of the Commissioner's Office carry out a follow-up visit to assess the progress made in implementing the recommendations laid out in the country assessment report. The Commissioner subsequently issues a follow-up report.

In 2006, the following follow-up visits took place:

10-12 January	Czech Republic
31 May – 3 June	Lithuania
7-9 June	Latvia
27-30 November	Estonia
5-7 December	Denmark
3-6 December	Poland

On 29 March 2006, follow-up reports on the following countries were published by the first Commissioner Alvaro Gil Robles: Bulgaria, the Czech Republic, Cyprus, Finland, Greece, Hungary, Norway, Malta, Romania, the Slovak Republic and Slovenia.

The follow-up reports on Denmark, Estonia, Latvia, Lithuania and Poland will be published in 2007.

### *Contact and special visits*

The Commissioner also carries out contact visits aimed at strengthening the continuous dialogue with national authorities and civil society. In 2006, the following contact visits were carried out:

25-26 February	Chechen Republic of the Russian Federation
5-7 May	Azerbaijan
22 May	Hungary
9-11 July	Georgia
13-15 October	Armenia
1-4 November	Turkey
4-6 December	Poland

The consolidated report of the visit to the Chechen Republic of the Russian Federation was published by the first Commissioner Alvaro Gil-Robles on 15 March 2006.

Furthermore, the Commissioner conducts more focused special visits to address specific concerns in member states. The Commissioner made a special visit to Slovenia on 15-16 November to assess the situation of the Roma minority, including a controversial eviction, and to Bosnia and Herzegovina on 20-22 December to explore possible solutions to the issue of decertified police officers. The Commissioner's statements regarding these visits have subsequently been published on his web-site.

An event organised in a member state may sometimes provide an opportunity for the Commissioner to conduct a short visit with a more focused agenda. In the context of the European Conference on Improving the Quality of Life of the Disabled Persons in Europe in St. Petersburg on 19-22 September, the Commissioner visited institutions taking care of people with disabilities in the St. Petersburg region and met with representatives of Russian authorities and civil society. During the meetings with national human rights institutions and ombudspersons in Athens on 27-30 September (see below, section 5.4), the Commissioner also had an opportunity to visit the Patras region to assess the situation of Roma in the wake of recent evictions.

### **5.3 Thematic Work**

#### *Thematic priorities*

The thematic priorities of the Commissioner are mainstreamed in all activities of his Office. They are given particular consideration during country missions and in the organisation of events, preparation of thematic documents and the Commissioner's participation in conferences.

In 2006, the priority themes of Commissioner Thomas Hammarberg included counter-terrorism measures and human rights, fight against xenophobia and discrimination, rights of migrants, prevention of violence against children, prison conditions and the protection of human rights defenders. In the prevention of discrimination, special attention was given to the rights of women, people with disabilities, Roma as well as lesbian, gay, bisexual and transgender people.

In line with his priorities, the Commissioner supported the Council of Europe campaigns "All different – All equal"; "Dosta! – Fight prejudices towards Roma"; "Building a Europe for and with Children"; "Stop domestic violence against women"; and "Human being - not for sale".

### *Reports, issue papers and viewpoints*

The Commissioner issues reports, recommendations, opinions and papers on human rights themes. These documents outline human rights problems followed by recommendations for responding to them or provide detailed advice to member states on specific questions regarding the implementation of human rights standards. Commissioner Thomas Hammarberg has also initiated a series of fortnightly Commissioner's viewpoints, published on his web-site, which take a clear standpoint on topical human rights concerns.

On 15 February 2006, the first Commissioner Alvaro Gil Robles presented and published a thematic report on the human rights' situation of Roma, Sinti and Travellers in Europe. This report was the first thematic report of the Commissioner, prepared on the basis of information contained in country-specific reports.

On 6 June 2006, Commissioner Thomas Hammarberg made public the first Issue Paper, entitled "Children and Corporal Punishment: the right not to be hit, also a children's right".

On 12 June 2006, the Commissioner published his Opinion on the interim report of the Group of Wise Persons.

In 2006, the following viewpoints were published on the Commissioner's web-site:

- "Fight terrorism with legal means" (3 April)
- "The Council of Europe protocol against discrimination is important" (18 April)
- "Women are still abused, discriminated and denied fair political influence" (2 May)
- "Religious leaders needed for rights cause" (15 May)
- "Migrants should not be denied their human rights" (30 May)
- "Every country should be monitored – and welcome that" (12 June)
- "Torture can never, ever be accepted" (27 June)
- "The Guantanamo scandal is also our concern" (10 July)
- "Gay Pride marches should be allowed and protected" (24 July)
- "People with disabilities have the right to be full-fledged members of society" (7 August)
- "Europe should remain a death penalty-free zone" (21 August)
- "Forced eviction of Roma families must stop" (4 September)
- "Ombudsmen are key defenders of human rights – their independence must be respected" (18 September)
- "It is high time to make reality of human rights" (3 October)
- "Social rights require adequate protection, also in Europe" (16 October)
- "Seeking asylum is a human right, not a crime" (30 October)
- "Human Rights Defenders must be able to criticize" (13 November)
- "Why domestic violence is not only a woman's issue" (24 November)
- "HIV infected persons should be supported, not discriminated against" (1 December)
- "Xenophobia: a shameful face of Europe" (18 December)

All of these viewpoints will also be published as a single volume in 2007.

### *Events*

Aiming to promote awareness of human rights and to explore specific concerns the Commissioner organises workshops and conferences on topical questions. The Commissioner and his Office also contribute to debates on human rights through their participation in major conferences.

In 2006, the Commissioner organised or co-organised the following events:

- Seminar on “Dialogue, tolerance and education: the concerted action between Council of Europe and the religious communities” (22-23 February 2006, Kazan, Russia, organised by the first Commissioner Alvaro Gil-Robles)
- Exchange of Views on the National Action Plans for Human Rights (Co-organised with the Steering Committee on Human Rights, 24 October 2006, Strasbourg)
- Workshop “Protecting Migrants’ Human Rights” (8 November 2006, Strasbourg)
- Colloquy “Protecting and Supporting Human Rights Defenders in Europe” (Co-organised with the Directorate General for Human Rights, 13-14 November, Strasbourg)

The Commissioner or his Office participated in the following major events during 2006:

- Launching Conference of the Programme: “Building a Europe for and with the Children” (Monaco, 5 April 2006)
- Conference on “Protection of the Rights of Children – Focus on Children at Risk” (Stockholm, 28 April 2006)
- Seminar marking the Tenth Anniversary of the Revised Social Charter (Strasbourg, 3 May 2006)
- Third Intergovernmental Conference on Making Europe and Central Asia Fit for Children (Palencia, 19 June 2006)
- Council of Europe Higher Education Forum 2: Higher Education and Democratic Culture (Strasbourg, 23 June 2006)
- Europride 2006 Conference “Prides against Prejudice” (London, 30 June 2006)
- Conference of Prosecutors General of Europe (Moscow, 5 July 2006)
- World Summit of Religious Leaders (Moscow, 5 July 2006)
- International Conference “Dialogue of Cultures and Inter-Faith Cooperation” (Nizhniy Novgorod, Russia, 7 September 2006)
- Conference on Housing Rights in Europe (Helsinki, 18 September 2006)
- European Conference on “Improving the Quality of Life of People with Disabilities in Europe” (St. Petersburg, 21 September 2006)
- Human Dimension Implementation Meeting of the OSCE (Warsaw, 2 October 2006)
- PACE urgent plenary debate on irregular migrants (Strasbourg, 5 October 2006)
- 27<sup>th</sup> Conference of the European Ministers of Justice “Victims: Place, Rights and Assistance” (Yerevan, 12 October 2006)
- Regional Seminar on Action against Trafficking in Human Beings: Prevention, Protection and Prosecution (Rome, 19-20 October 2006)



- 28th European Conference of the International Lesbian and Gay Association / 10th ILGA-Europe Conference (Sofia, 26 October 2006)
- Second Plenary Assembly of the European Roma and Travellers' Forum (Strasbourg, 6 November 2006)
- Council of Europe Conference on Social Cohesion in a Multicultural Europe (Strasbourg, 9 November 2006)
- World Jewish Congress Governing Board (Paris, 12 November 2006)
- Launching ceremony of the Campaign on violence against women, including domestic violence (Madrid, 27 November 2006)
- Regional Seminar on Action against Trafficking in Human Beings: Prevention, Protection and Prosecution (Athens, 5-6 December 2006)
- 8<sup>th</sup> EU NGO Forum on Human Rights (Helsinki, 7-8 December 2006)

#### **5.4 Promotion of National Human Rights Structures**

National ombudspersons, national human rights institutions (NHRI) and other specialised bodies for the protection of human rights have a pivotal place in the European human rights system. The Commissioner promotes their creation and effective functioning in the member states. In addition to bilateral contacts with these institutions, the Commissioner organises biennial meetings with European ombudspersons and NHRIs. The Commissioner also cooperates with regional and local ombudspersons.

During the year 2006:

- The Commissioner organised, in cooperation with the Russian Federal Ombudsman for Human Rights and St. Petersburg Strategy Centre, the Annual Round Table of Russian Regional Ombudsmen, in St. Petersburg on 4-5 June 2006, under the framework of the Joint Programme of Council of Europe and the European Commission for the promotion of the regional ombudsmen in the Russian Federation;
- The Commissioner participated in the European Ombudsmen Meeting in Vienna on 13 June 2006, where consultations were launched on the role of the ombudspersons, jointly with the Commissioner, in alleviating the workload of the European Court of Human Rights;
- The Commissioner organised, jointly with the Russian Federal Ombudsman for Human Rights and the Greek Ombudsman, a conference entitled "Ombudswork for children", in Athens on 29-30 September 2006, bringing together over a hundred participants including national and regional ombudspersons, the European Ombudsman, Council of Europe and UN experts and representatives from the NGOs;
- The Commissioner organised, jointly with the Greek National Commission for Human Rights, the Fourth Round Table of European National Institutions for the Promotion and Protection of Human Rights and the Commissioner for Human Rights, in Athens on 27-28 September 2006.

The EUNOMIA Project for the promotion of ombudsman institutions in South-Eastern Europe continued to be run by the Greek Ombudsman under the auspices of the Commissioner's Office.

## **6. Staff and Budget**

Following the priority attached to the Commissioner's institution at the Warsaw Summit of Heads of State in 2005, the regular budget for 2006 made provisions for three more permanent administrators (one of grade A4 and two of grade A2/3) and two further assistants. This represented the most significant increase in the Commissioner's resources, so far. The regular budgets for 2004 and 2005 were respectively 956,800 and 1,179,600 euros. In 2006, the regular budget of the Commissioner's Office became 1,639,600 euros.

The provisions for more permanent staff resulted in a permanent staff budget of 989,400 euros in 2006. However, it was not possible to fill all these staff positions during 2006 and 220,000 euros from this amount was transferred to the temporary staff budget. In contrast, the Commissioner's regular operational budget in 2006 was the same as in 2005, i.e. 252,200 euros. Because of this situation, the Commissioner has again had to rely on the voluntary contributions of individual member states.

At the end of year 2006, the total number of permanent positions in the Commissioner's Office was 13 with 11 of them filled with permanent staff. There were 12 temporary staff (two of them part-time) and three personnel seconded by the Governments of Finland, Turkey and Ireland.

The long-term aim of the Commissioner is that the core tasks of his Office are carried out by permanent staff. The Commissioner estimates that this would require approximately 30 members of permanent staff. The budget for 2007, approved in December 2006, foresees the creation of one new administrator's post in the Commissioner's Office.

In 2006, the Commissioner benefited from the voluntary contributions by the Governments of Cyprus, Finland, Greece, Ireland, Liechtenstein, Luxembourg, Monaco, Poland, Russian Federation, Spain, and the United Kingdom. The representative of the Commissioner's Office in the Office of the Chechen Ombudsman in Grozny was partially funded under a Joint Council of Europe and European Commission Programme. The Commissioner expresses his gratitude for the voluntary contributions.

## ORDINARY BUDGET 2006

<b>Article</b>	<b>Budget</b>
Remuneration of permanent staff	989 400,00
Remuneration of temporary staff	37 000,00
Emoluments of the Commissioner for Human Rights	196 000,00
Interpretation	60 000,00
Translation	90 000,00
Document production and distribution	15 000,00
The Promotion of the effective respect for human rights	109 700,00
Human rights awareness raising	72 400,00
Legal advice and participation in litigation before ECtHR	30 000,00
Support and Coordination of Ombudsman & National Human Rights Institutions	25 100,00
Communication, Office supplies, misc.	15 000,00
<b>TOTAL</b>	<b>1, 639 600,00</b>

## MEMBERS OF THE OFFICE IN 2006

### **1. PERMANENT STAFF**

#### **Director of the Office**

Mr. Manuel LEZERTUA

#### **Deputy to the Director**

Mr. Markus JAEGER

#### **Advisors**

Mr. Alexandre GUESSEL

Mr. Lauri SIVONEN

Ms. Florence CALLOT

Mr. Roman CHLAPAK

*as from 15.05.2006*

*as from 01.12.2006*

#### **Documentalist**

Mrs Muriel DABIRI

### **Personal Assistants**

Ms. Sandra FERREIRA  
Ms. Nadia SOKOLOVA *as from 01.07.06*

### **Assistants**

Ms. Mila SMELIKOVA  
Ms. Karina FORSYTH-LOTZ *as from 01.12.06*

## **2. TEMPORARY STAFF**

### **Advisors and experts**

Mr. Julien ATTUIL  
Mr. Mamed MADAEV  
Mrs. Rachael KONDAK (part-time)  
Ms. Aurélie CAMPANA *up till 09/2006*  
Mr. Brecht VANDENBERG *up till 01/2006*  
Ms. Irene KITSOU – MILONAS *as from 04/2006*  
Ms. Anna NILSSON *as from 06/2006*  
Ms. Zsófia SZILAGYI *as from 07/2006*  
Ms. Gesa DANNENBERG *07/2006 to 09/2006*  
Ms. Birgit WEYSS *as from 08/2006*  
Mr. Stefano MONTANARI *as from 09/2006*  
Ms. Rita PATRICIO *as from 09/2006*

### **Archiving specialist**

Ms. Virginie GODAR *as from 10/2006*

### **Web-master**

Ms. Yasmine CARLET (part-time) *as from 01/2006*

### **Assistant**

Ms. Margaret ASANTE

## **3. SECONDED STAFF**

### **Advisors**

Ms. Sirpa RAUTIO  
Seconded by the Finnish Government

Mr. John DALHUISEN *up till 09/2006*  
Financed by voluntary contribution of the  
United Kingdom Government

Mr. Alp AY  
Seconded by the Turkish Government *as from 01.09.2006*

Mr. Andrew FORDE *as from 01.12.2006*  
Seconded by the Irish Government

